



59109

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

Plaintiff,

CONSOLIDATED RAIL CORPORATION,  
a/k/a CONRAIL,

) Judge Robert L.

Defendant and Third  
Party Plaintiff,

PENN CENTRAIL CORPORATION,  
et al.,

**The deposition of BETTY JANE BIRR**

1  
2  
3 MR. KURT N. LINDLAND  
4 Office of Regional Counsel  
5 U.S. Environmental Protection Agency  
6 Region 5: CS-3T  
7 77 West Jackson Boulevard  
8 Chicago, Illinois 60604

9  
10 Appeared on behalf of the Plaintiff;

11  
12  
13 MR. JAMES A. ERMILIO  
14 Bingham, Dana & Gould  
15 Suite 1200  
16 1550 M Street, N.W.  
17 Washington, D.C. 20005

18  
19 Appeared on behalf of the Defendant and  
20 Third Party Plaintiff;

21  
22 MR. PIERCE E. CUNNINGHAM  
23 Frost & Jacobs  
24 2500 Central Trust Center  
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Cincinnati, Ohio 45202

Appeared on behalf of the Third Party  
Defendants.

**I N D E X****DIRECT EXAMINATION****By Mr. Lindland . . . . . Page 4****CROSS EXAMINATION****By Mr. Cunningham . . . . . Page 129****E X H I B I T S****Plaintiff's Deposition Exhibit No.****Marked**

- |          |  |                 |
|----------|--|-----------------|
| <b>1</b> | <b>Notice of Rule 30 (b) (6) Deposition</b>  | <b>Page 7</b>   |
| <b>2</b> | <b>Consolidated Rail Corporation<br/>Hazardous Material Policies,<br/>Procedures and Regulations</b> | <b>Page 91</b>  |
| <b>3</b> | <b>Spill Prevention and Countermeasure<br/>Plan dated November 10, 1983</b>                          | <b>Page 115</b> |
| <b>4</b> | <b>Summary of Hazardous Materials Incidents</b>  | <b>Page 117</b> |

1 BETTY JANE BIRR,  
2 called as a witness by the Plaintiff, being first duly  
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. LINDLAND:

6 Q Would you please state your name for the record?

7 A Betty Jane Birr.

8 Q And if you could, state your address, please.

9 A [REDACTED] (b) (6)

10 Q And your phone number?

11 A [REDACTED] (b) (6)

12 Q My name is Kurt Lindland. As I indicated, I  
13 represent the United States Environmental  
14 Protection Agency in the action for which we are  
15 here today.

16 Are you familiar with the oath that you just  
17 took?

18 A Yes.

19 Q Do you recognize that oath as binding on you  
20 today as it would be in a court of law?

21 A Yes.

22 Q If there's a question that I ask and you don't  
23 understand it, just say that you don't understand  
24 it and I can rephrase it. If there is any  
25 question that you don't -- that you don't hear,

1 just say, "Could you repeat the question,  
2 please."

3 A Okay.

4 Q If your attorney objects, you should still answer  
5 the question except if he says, "Don't answer the  
6 question." If you need to leave for anything,  
7 you know, say something and we can arrange for a  
8 break.

9 Have you ever been deposed before?

10 A Yes.

11 Q Where was that?

12 A Toledo, Ohio.

13 Q And do you remember the action or the name of the  
14 action?

15 A It had to do with a discrimination suit.

16 Q Okay. Do you remember the parties involved?

17 A No. It's too many years ago.

18 Q When approximately was that?

19 A Let's see. It was in the early '80's. That's  
20 the best I can remember.

21 Q Do you remember what role you played in that; for  
22 example, a witness?

23 A I was questioned because I was the supervisor at  
24 that time.

25 Q Who did you work for then?

1 A Conrail.

2 Q And was Conrail involved in the action?

3 A Yes.

4 Q Have you ever testified at trial before?

5 A No.

6 Q Okay. I've got a few questions I'd like to ask  
7 you regarding this deposition and the days and  
8 weeks that were preceding today.

9 First of all, did you speak with anyone  
10 about this deposition --

11 A No.

12 Q (Continuing) -- in preparing for it?

13 A No.

14 MR. ERMILIO: Other than the attorneys?

15 A Other than I was supposed to be here, yeah.

16 BY MR. LINDLAND:

17 Q Okay. Did you speak with anyone other than your  
18 counsel about this deposition or in preparation  
19 for this deposition?

20 A I notified my manager I would be going.

21 Q And who is your manager?

22 A Dale King.

23 Q Dale King?

24 A Uh-huh.

25 Q And what did you say to Dale King?

1           A     That I was to come and answer questions in  
2                   handling the paperwork of the hazardous material  
3                   that goes through Elkhart.

4           Q     Is Dale King still your manager?

5           A     Yeah.

6                                 (Plaintiff's Deposition Exhibit No. 1  
7                                 marked for identification.)

8     BY MR. LINDLAND:

9           Q     I'll hand you what's been marked as Plaintiff's  
10                  Exhibit No. 1. Have you seen this document  
11                  before?

12          A     Yes.

13          Q     And in what context have you seen this document?

14          A     This morning to see what I could answer, what  
15                  questions I could answer.

16          Q     You were asked what questions you could answer by  
17                  looking at this document?

18                                 MR. ERMILIO: I'm not going to let her  
19                                 discuss the matters discussed, any  
20                                 conversations with counsel.

21     BY MR. LINDLAND:

22          Q     Okay. If you could just review this document --  
23                  I believe it's beginning on page two -- and if  
24                  you could just -- if you could just indicate  
25                  which matters there you have knowledge of.

1           A    Number two, number seven I could answer somewhat,  
2                   number eight, I could answer for my department on  
3                   number nine, number 14, the handling of the  
4                   waybills. That's about it.

5           Q    Okay. Thank you. Did you review any other  
6                   documents in preparation for this deposition?

7           A    No.

8           Q    Did you make any notes, any memos to yourself?

9           A    No.

10          Q    Did you bring with you any documents or notes or  
11                memos relating to --

12          A    No.

13          Q    (Continuing) -- the Conrail yard today?

14          A    I brought nothing.

15          Q    Did your counsel review your files at Conrail?

16                   MR. ERMILIO: Objection. I'm not going  
17                   to let you discuss or get into anything  
18                   we did or anything that I did.

19                   MR. LINDLAND: Well, there's no --  
20                   there's no communication here. I'm just  
21                   asking if you reviewed her files.

22                   MR. ERMILIO: If I was looking at  
23                   documents?

24                   MR. LINDLAND: Right.

25                   MR. ERMILIO: That's going to be

1                   protected. Any particular documents I chose  
2                   to look at I'm going to take the position  
3                   that that is protected, also.

4                   MR. LINDLAND: Are you instructing  
5                   your client not to answer?

6                   MR. ERMILIO: Yes.

7 BY MR. LINDLAND:

8           Q       I have a few questions I'd like to ask you now  
9                   about your background, and I'd like to begin with  
10                  your education. Did you graduate from high  
11                  school?

12          A       Yes, I did.

13          Q       And where did you go to high school?

14          A       Loudoun County High, Leesburg, Virginia.

15          Q       And what year did you graduate?

16          A       '62.

17          Q       Did you go to college?

18          A       I've only taken one or two courses.

19          Q       And what courses are those?

20          A       Those were in early childhood education.

21          Q       They were both in the same topic?

22          A       Uh-huh.

23          Q       What year did you take those?

24          A       It was in the '70's. That's the best I can --

25          Q       Where did you take those?

- 1 A Fremont, Ohio.
- 2 Q Have you had any seminars or training since then?
- 3 A In what field?
- 4 Q In anything.
- 5 A Other than what Conrail would offer?
- 6 Q Including what Conrail would offer.
- 7 A Yeah. Conrail has given us different training --
- 8 training in different fields.
- 9 Q Okay. Can you name some of those fields?
- 10 A In HazMat.
- 11 Q That's hazardous materials?
- 12 A Uh-huh.
- 13 Q What year did you take your first hazardous
- 14 materials course at Conrail?
- 15 A I cannot remember the years because it's been
- 16 quite a few years.
- 17 Q Roughly, like --
- 18 A Roughly, it had to be back in '83, '84.
- 19 Q Did you take any other hazardous materials
- 20 courses?
- 21 A No.
- 22 Q So there was just one at Conrail then?
- 23 A There could have possibly been others, but I
- 24 don't remember. It's been quite a while.
- 25 Q Okay. Did you take any other courses at Conrail?

1 A They gave us -- boy. On EEO, equal rights, how  
2 to handle discipline.  
3 Q That was in the same seminar?  
4 A No. They're all separate.  
5 Q Okay. Do you remember any others?  
6 A I know there was more, but I can't remember them  
7 right now.  
8 Q Okay. The hazardous materials seminar, do you  
9 remember who sponsored that or who --  
10 A It was sponsored by Conrail.  
11 Q Do you remember who the speakers were?  
12 A Yes, Norm Mikrut, M-i-k-r-u-t.  
13 Q And is Norm an employee of Conrail?  
14 A Yes, he is.  
15 Q Was he at the time he gave the seminar?  
16 A Yes, he was.  
17 Q And what is Norm's position?  
18 A He is now a tower operator.  
19 Q That's t-e-l-l-e-r?  
20 A T-o-w-e-r, tower.  
21 Q Tower, I'm sorry.  
22 A That's his -- that's what he's doing now.  
23 Q What tower does he work in, do you know?  
24 A One in the Chicago area.  
25 Q Were there any other instructors?

1 A He's the only one I can remember.

2 Q Did you receive any written materials from that  
3 seminar?

4 A No. Basically, we just went over certain items.

5 Q Do you remember specifically any items that you  
6 did go over?

7 A How to write a CT-168. That's a hazardous  
8 material form.

9 Q CT-168?

10 A Uh-huh.

11 Q And what exactly is a CT-168?

12 A It's a form that we give the train crew that  
13 shows car number initial, the status of the car,  
14 if it's loaded or empty and what the placard of  
15 the hazardous material is, the identification  
16 number and the placement in the train.

17 Q And where are those documents kept?

18 A Each location keeps their own. We in Elkhart  
19 keep them at the outbound clerk station.

20 Q The outbound clerk station?

21 A Uh-huh.

22 Q Where is that on -- with respect to the yard?

23 A It's in the hump building, second floor.

24 Q Are they retained there forever?

25 A No, for a few months.

1 Q And are they then sent to another location?

2 A No. They're destroyed then.

3 Q Who destroys them?

4 A I give them permission when to destroy them.

5 Q Okay. Are there copies that are -- that are kept  
6 in another location?

7 A No.

8 Q There's just a copy and it's kept --

9 A I believe the time period is three months we keep  
10 them.

11 Q Okay. When did you first become employed?

12 A 11-13-78.

13 Q And who was your employer then?

14 A Conrail.

15 Q What was your first position with Conrail?

16 A Clerk.

17 MR. CUNNINGHAM: Excuse me. What was  
18 the date?

19 MR. LINDLAND: 11-13-78, I think.

20 MR. CUNNINGHAM: Thank you.

21 BY MR. LINDLAND:

22 Q What location was that in?

23 A Toledo, Ohio.

24 Q What sort of yard was that; was that a  
25 classification yard?

1 A Yes, it was.

2 Q What were your duties as a clerk in 1978?

3 A We had various duties. Each position was worked  
4 differently. One was a general clerk where you  
5 checked the trains in, read the car numbers and  
6 initials. Another was what they called a bill  
7 rack clerk, which is an outbound clerk.

8 Q I'm sorry; could you repeat your answer?

9 A The second one was a bill rack clerk, which is an  
10 outbound clerk. He's in charge of getting the  
11 paperwork together for outbound trains. Another  
12 position was classification clerk where you  
13 classified where the car is going to go, a  
14 numeric number was put on it. Another one was a  
15 chief clerk where you oversaw everything.

16 Q So does a chief clerk oversee a general clerk?

17 A Oversees all the jobs, yes.

18 Q Okay. Do you remember who your supervisor was as  
19 a general clerk?

20 A Jim Hulas.

21 Q Hulas?

22 A Uh-huh.

23 Q Do you know if Jim Hulas still works at Toledo?

24 A I believe he's at the van site in Toledo, Ohio.

25 Q Now, it's my understanding that you worked all of

1                   these positions --

2           A     Yes.

3           Q     (Continuing) -- as clerk beginning 11-13-78?

4           A     Uh-huh.

5           Q     Which one did you work first?

6           A     General clerk.

7           Q     General clerk. And second?

8           A     Classification.

9           Q     And third?

10          A     Bill rack.

11          Q     And then you were a chief clerk then?

12          A     Yes. I worked -- I worked that, also.

13          Q     As a bill rack -- wait. Strike that.

14                   As a classification clerk, who did you  
15                   report to?

16          A     Jim Hulas. We reported to him for all positions.  
17                   He was our supervisor.

18          Q     What was his title?

19          A     Supervisor of transportation reporting.

20          Q     Did you receive any training in the handling of  
21                   hazardous materials as a clerk in 1978?

22          A     You were instructed by another clerk on each  
23                   position.

24          Q     Who were you instructed by?

25          A     Oh, I can't remember the clerk's name back then.

1 That's quite a while.

2 Q Okay. Was there any training manual or any sort  
3 of procedures document that was used by the  
4 clerks in handling hazardous materials?

5 A We always had a BO -- BOE-6000 hazardous  
6 materials manual available for reference.

7 Q What exactly is a BOE-6000 hazardous materials  
8 manual?

9 A That has all the information pertaining to  
10 hazardous material, what the commodities are,  
11 what they'll do.

12 Q Does BOE stand for Bureau of Explosives?

13 A Yes, it does.

14 Q And did you have a copy of that in 1978?

15 A At the bill of rack there was one, yes.

16 Q Does Conrail still use that document?

17 A Yes, they do. It's called a BOE-6000L right now.

18 Q Is the type of hazardous materials identified in  
19 there that are used at the yard?

20 A Yes. Excuse me. You say used at the yard?

21 Q Yes. In other words, does the BOE-6000 contain a  
22 list of hazardous materials used at the yard?

23 A Not used at the yard but car loads of hazardous  
24 materials that goes through the yard.

25 Q Is this sort of a general list or is this

1 specific for each yard?

2 A No. It's for all locations of Conrail.

3 Q Okay. Then this is a list of potential materials  
4 that might come through the yard; is that  
5 accurate?

6 A Anything that's hazardous materials that's  
7 handled, yeah.

8 Q Okay. After you were chief clerk, were you  
9 promoted?

10 A I was promoted in about January of '80 or January  
11 '81.

12 Q And what were you promoted to?

13 A Supervisor of transportation reporting.

14 Q Where was that?

15 A Toledo.

16 Q What were your responsibilities as supervisor of  
17 transportation reporting?

18 A Oversee all the clerical positions.

19 Q Who was your immediate supervisor?

20 A Keith Banister.

21 Q Baxter?

22 A Banister, B-a-n-i-s-t-e-r.

23 Q Is Mr. Banister still in Toledo?

24 A No. He's in Pittsburgh, Pennsylvania now.

25 Q But he's with Conrail?

1 A Yes, he is.

2 Q Do you know what his position is now?

3 A Manager.

4 Q As the supervisor of transportation, did you  
5 receive any training in hazardous materials then?

6 A At some time or another we had another class in  
7 hazardous training, yes, but it would be no more  
8 than what I stated before.

9 Q When you say "no more," do you mean the content  
10 was basically the same?

11 A Yeah --

12 Q Do you --

13 A (Continuing) -- because it was a yard.

14 Q Was the Toledo yard basically the same layout as  
15 the Elkhart yard?

16 A Yes, except Elkhart is much larger.

17 Q Do you remember who taught that class while you  
18 were in Toledo?

19 A No, I don't.

20 Q Do you remember anything about that class?

21 A Basically it was the same thing, to cover the  
22 handling of the 168.

23 Q Did you also have a BOE-6000?

24 A You always have one of those.

25 Q Were you then promoted?

1 A Like, when I came to Elkhart?

2 Q Well, after January 1980.

3 A I was the STR at the yard, and then in '85 I was  
4 promoted up a grade to Elkhart.

5 Q 1985?

6 A Uh-huh.

7 Q Do you remember the month?

8 A May.

9 Q And what were you promoted to?

10 A Just a different title, same duties, higher  
11 grade.

12 Q And how many years were you at that grade or that  
13 position then?

14 A Well, actually, I'm still at the same position;  
15 it's just a different title.

16 Q Okay. And what title is that?

17 A Supervisor customer operations.

18 Q And what month and year were you promoted to that  
19 position?

20 A That really wasn't a promotion. They just  
21 changed all their titles.

22 Q Okay. What year was that in?

23 A They've changed at least three times in the last  
24 five years so --

25 Q Do you remember the first time?

1           A     No, I don't.

2           Q     Do you remember the second?

3           A     No, I don't. They keep changing the title, but

4                 it's the same job.

5           Q     Why do they change the title; do you know?

6           A     Because now we're a customer operation center and

7                 they want us to be known that that is what we're

8                 there for now, to work with the customers.

9           Q     Do your responsibilities change at all --

10          A     No.

11          Q     (Continuing) -- as the title changes?

12          A     No.

13          Q     And your responsibilities then stayed the same

14                 from your job in Toledo as STR to your job as STR

15                 in Elkhart?

16          A     I'm doing the same duties, just have a bigger

17                 location.

18          Q     Who was your supervisor when you first came to

19                 the Elkhart yard in 1985?

20          A     Walter Wood.

21          Q     Walter Wood?

22          A     Uh-huh.

23          Q     Do you know if Walter Wood is still at the

24                 Conrail yard?

25          A     He's retired.

1 Q Does he reside in Elkhart?

2 A Fort Wayne.

3 Q Who was your supervisor after Mr. Wood?

4 A Rick Roberts.

5 Q Is Mr. Roberts still at the Elkhart yard?

6 A No. He's someplace in Pennsylvania. He was at  
7 Pittsburgh. He transferred again.

8 Q Does he work for Conrail still?

9 A Yes, he does.

10 Q How long was he your supervisor?

11 A Just a short time, about a year.

12 Q Who was your supervisor after Mr. Roberts?

13 A That would be Dale King.

14 Q And what year did he first become your  
15 supervisor?

16 A Probably 1990.

17 Q And he's still your supervisor?

18 A Yes, he is.

19 MR. ERMILIO: Excuse me. Betty, for  
20 the reporter's sake and also to help us get  
21 a clear record, will you wait until Mr.  
22 Lindland is done asking you questions before  
23 you answer; otherwise, she's going to be  
24 trying to type each of your responses at the  
25 same time.

1 BY MR. LINDLAND:

2 Q How many people work under you right now?

3 A Twenty-one.

4 Q And could you list the various positions that are  
5 under you?

6 A I have chief clerks --

7 Q I'm sorry, chief clerks?

8 A Uh-huh.

9 Q And how many of those do you have?

10 A Three. No, it would be four with the relief. I  
11 have bill rack clerks. That would be four  
12 counting the relief. I have outbound camera  
13 clerks.

14 Q Outbound camera?

15 A Uh-huh. That's four, also, and I have four  
16 utility clerks, five relief positions and three  
17 extra board.

18 Q That's extra board?

19 A Uh-huh.

20 Q What does a chief clerk do?

21 A He weighs cars, he handles calls from the  
22 customers, he takes care of my extra board,  
23 filling the positions.

24 Q That's extra board; that's two words?

25 A Uh-huh.

1 Q What exactly is an extra board?

2 A They cover all positions that they're qualified  
3 on. If there's a vacancy, they are called to  
4 work that position.

5 Q They fill in?

6 A They fill in, yes.

7 Q Are there any other functions that a chief clerk  
8 performs?

9 A He oversees the entire operation when I'm not  
10 there.

11 Q And is there a chief clerk there all the time?

12 A Yes. It's a 24 hour operation.

13 Q Okay. What shift do you work?

14 A I'm usually there during the day, but I'm on call  
15 24 hours a day seven days a week.

16 Q Do your chief clerks receive any training in  
17 hazardous materials?

18 A About the same as I.

19 Q Is that true for everyone in the -- your office?

20 A Yes.

21 Q Okay. What are the names of your chief clerks?

22 A The day shift from seven to three is Jim Taylor.  
23 From three to eleven we have a Victor Feeley.

24 Q Victor Feeley?

25 A Uh-huh. And from eleven to seven we have a Jim

1 Wellman, and the relief would be LeRoy Krempec.

2 Q When is the relief person used?

3 A Various days, Saturday and Sunday days; Monday  
4 second; Wednesday, Thursday third.

5 Q You indicated that the chief clerk is responsible  
6 for weighing cars?

7 A Uh-huh.

8 Q Is that weighing all cars?

9 A Only the ones that are specified to be weighed.

10 Q And how are they specified to be weighed?

11 A The utility clerk will class them on the -- on  
12 train arrivals when they issue the switch list by  
13 indicating an "S" in the column, and that will  
14 signify the cars to be weighed.

15 Q What's a switch list?

16 A A switch list is a list of the cars lined up in  
17 the order that they arrived in the yard with a  
18 nine line designating where they are to go and if  
19 they are loads or empties.

20 Q So there's an indication on the switch list of  
21 the weight of the load?

22 A To be weighed, yes.

23 Q Why is the car weighed?

24 A Maybe the customer needs it weighed for revenue  
25 purposes. Maybe we need to find out if it's

1 actually loaded or empty.

2 Q So that wouldn't be indicated on the switch list,  
3 whether --

4 A Some of it is done automatically by the computer  
5 that when they initially waybill it, they can put  
6 what they call a wener, w-e-n-e-r, in the  
7 waybill, so the computer will automatically pick  
8 it up and put it on the switch list for us.

9 Q We'll get into all of that --

10 A Oh, yeah.

11 Q (Continuing) -- in detail, I'm sure. The tank  
12 car is weighed, as well?

13 A If it's needed.

14 Q What does a bill rack clerk do?

15 A He checks -- let me start over. He receives what  
16 we call a YMMO, it's a yardmaster move, a piece  
17 of paper, a list of cars. That shows the list of  
18 cars that are moved from one track to the other.

19 He makes sure they are lined up in the  
20 computer, that they all have a -- the ones that  
21 are necessary to have a waybill has a waybill,  
22 such as hazardous materials, high-wide and  
23 certain foreign lines still require waybills on  
24 everything.

25 Q You say high-wide?

1 A Yes, excessive dimension cars.

2 Q Okay. So larger than normal cars required one of  
3 these?

4 A Larger than normal cars, yes.

5 Q And what is a normal car?

6 A A normal car would be a regular box car, an 80  
7 foot car.

8 Q Eighty foot?

9 A Yeah.

10 Q What's the dimension of a high-wide car?

11 A High-wide would be anything over probably  
12 nineteen foot two and anything wider than eleven  
13 foot three.

14 Q What's the size of a tank car?

15 A I couldn't tell you.

16 Q Are there any other functions of a bill rack  
17 clerk?

18 A He handles all the paperwork. He produces the  
19 bills for the hazardous material. He writes the  
20 CT-168, he notifies the trainmaster and/or  
21 yardmaster if the hazardous material cars are not  
22 properly placed in the train. If he has cars  
23 that are in the train that are not to go in that  
24 train, we call them inwrongs.

25 Q Could you spell that?

1           A    Yes.  It's one word, i-n-w-r-o-n-g-s, inwrongs.  
2                It's cars that are in the train -- let's say the  
3                train is going west and there's a car that's  
4                supposed to be going east.  He has to notify them  
5                so that they can take it out.

6           Q    You say that they write the CT-168?

7           A    We used to write it.  It is now computer  
8                generated, but we check it over and what's  
9                missing we hand write it on there, the placards  
10               that they're missing.

11          Q    Are there any -- what's the other functions of a  
12                bill rack clerk?

13          A    He compiles it all, writes a train bid sheet.

14          Q    What is a bid sheet?

15          A    It shows the engine numbers, how many cars are in  
16                the train, if there's any exceptions, such as  
17                hazardous material, excessive dimension cars,  
18                shows the first and last car number and each  
19                block of the train, the total tonnage for each  
20                block.  He then faxes that to Lansing, Illinois  
21                to create a wheel report, which goes with all of  
22                the paper to the crew.

23          Q    You said a wheel report?

24          A    Yes.

25          Q    What exactly is a wheel report?

1       A     A wheel report is the make-up of the complete  
2             train exactly how it stands on the track so  
3             everybody knows what's in the train.

4       Q     And then what happens to the wheel report?

5       A     The wheel report, all the waybills that are  
6             necessary to go, a copy of the train bid sheet  
7             and the CT-168, if there is one, goes to the  
8             crew, and a copy of the bid sheet, of course,  
9             goes to the dispatchers in Dearborn.

10      Q     Okay. So the wheel report is the last sort of  
11             compiled --

12      A     Yes.

13      Q     (Continuing) -- group of all the documents that  
14             need to go with the train?

15      A     With the wheel report, if there is hazardous  
16             material in the train, it will kick out the  
17             CT-168 and the HazMat that tells you what the  
18             commodity is, and if anything happens, what the  
19             emergency response would be, what you should do.

20      Q     So that information would be included in the  
21             wheel report?

22      A     Yes.

23      Q     What is a bill rack?

24      A     It's an old name for an outbound clerk. Years  
25             ago it was a big piece of wood, square with lots

1 of pigeon holes in it, where you used to put  
2 waybills by the last digit of the car number.

3 Q Okay.

4 A It's kind of obsolete.

5 Q It doesn't -- so that is not used anymore?

6 A No, not -- it's not used except for hazardous  
7 material cars. We still maintain bills for those  
8 by the last car number. Instead of 70 some  
9 pigeon holes we now have ten.

10 Q Makes your life easier?

11 A Yes.

12 Q Who are your bill rack clerks?

13 A First shift would be Frank Lenox, L-e-n-o-x,  
14 second shift would be Dave Brusich, third shift  
15 would be Betty McClinton. The relief would be --  
16 they just made a bump. Pete Rules I believe just  
17 bumped onto it.

18 Q Do you know how long Frank Lenox has been there?

19 A He came -- I know he has a year before he retires  
20 so he's been there for quite a few years.

21 Q Has he always been a bill rack clerk; do you  
22 know?

23 A No, he's been various.

24 Q Do you know how long he's been a bill rack clerk?

25 A This time around he's been on about a year.

1 Q When you say "this time around," is this sort of  
2 a general circulation of employees?

3 A They have what you call bumping rights that you  
4 can bump from one job to another if you're  
5 displaced or your job is taken off. It's by  
6 seniority.

7 Q I see. Do you know whether he has been a bill  
8 rack clerk before?

9 A Yes, he has.

10 Q Do you know when?

11 A Back up. Let's see. This is '92. It had to be  
12 in the latter part of the '80's, probably '86 to  
13 '88.

14 Q Do you know how long he was a bill rack clerk  
15 then?

16 A He was there for a couple years.

17 Q Do you know any of the bill rack clerks or any of  
18 their names who have been bill rack clerks before  
19 1985?

20 A Frank would probably have been the only one.

21 Q Frank Lenox?

22 A Uh-huh.

23 Q Do you know anyone else that's working right now  
24 at the Conrail yard in Elkhart that was a bill  
25 rack clerk prior to 1985?

1 A Maybe a Tom Bays.

2 Q Tom Bays?

3 A Bays, B-a-y-s. I think there was an Erika  
4 Lowell.

5 Q Erika Lowell?

6 A Uh-huh. She is now at 47th Street, though, in  
7 Chicago. And I'm not sure if any of the others  
8 worked it before '85 or not.

9 Q Okay. What does an outbound camera clerk do?

10 A He takes the yardmaster move sheet, the YMMO, and  
11 he physically checks by camera all cars pulled  
12 out in the west end of the yard to make outbound  
13 trains.

14 Q When you say, "by camera," what do you mean "by  
15 camera"?

16 A We have cameras through the yard, and as they  
17 come by they -- they click on, we record all the  
18 moves, and he plays them back and checks them by  
19 the video.

20 Q So the cameras will -- they automatically turn  
21 on --

22 A Uh-huh.

23 Q (Continuing) -- when a car moves?

24 A Yes.

25 Q Do you know -- is there a motion detector that's

1 on the camera?

2 A It's in the rail.

3 Q How long has Conrail used these cameras?

4 A Since I've been there.

5 Q And how many cameras are there in the yard; do  
6 you know?

7 A We have four on the outbound and three on the  
8 inbound.

9 Q And their purpose is to record the cars that are  
10 coming in and going out?

11 A Yes.

12 Q And do they record a number; is that what the  
13 clerk looks for?

14 A It reads the car number -- you actually  
15 physically see the car, and you see the number  
16 right on the side of the car, the car number  
17 initial.

18 Q Okay. Is that why the clerk is looking at the  
19 monitor to record a number; in other words, the  
20 car number?

21 A Yeah, because we want to make sure the train is  
22 lined up properly.

23 Q So is this sort of a check and balance kind of --

24 A That's it, yes.

25 Q (Continuing) -- kind of system?

1                   And are copies of those tapes kept at  
2                   Conrail?

3           A     For three days.

4           Q     For three days?

5           A     Uh-huh.

6           Q     Are copies made?

7           A     No.

8           Q     What happens to them after three days?

9           A     We record over the top of them.

10          Q     Who is in charge of running the cameras?

11          A     The camera clerks.

12          Q     Okay. Do they have any other responsibilities?

13          A     They'll go out and check inbound trains when  
14                necessary.

15          Q     Do those cameras ever break?

16          A     Sure.

17          Q     And do they fix them then?

18          A     No. We have maintainers that does that.

19          Q     Okay. Who are your maintainers? Are they  
20                Conrail employees?

21          A     Yeah. It's another department.

22          Q     What department does your office fall within?

23          A     I'm stations.

24          Q     Stations department?

25          A     Uh-huh.

1 Q Do you know what department would fix those  
2 cameras?

3 A C and S, I believe.

4 Q And what does C and S stand for?

5 A I've only known them by C and S.

6 Q Maybe that would be communications and signals?

7 A Yes, communications and signals. Thank you.

8 Q I never worked at Conrail.

9 Okay. Who are your outbound camera clerks?

10 A Day shift, Gary Casdorf. Second shift who is it?  
11 We've recently had bumping going on, so I have to  
12 stop and think who the second one is. Jim Gunn.  
13 Jim Gunn is second. Third shift is John Nolan,  
14 and the relief is Francis Howard.

15 Q Francis?

16 A Howard.

17 Q You said that there's bumping going on. Does  
18 that mean that some of these people are being  
19 bumped and new employees are being sort of traded  
20 for their position or are these --

21 A Yes.

22 Q So the people that are going into the positions  
23 are they already trained or do they become  
24 trained?

25 A Some are trained; some require being trained.

1 Q So if an employee has seniority but is not  
2 trained for a clerkship position and that  
3 position is open, if they go into that position,  
4 they'll be trained?

5 A Yes.

6 Q That will happen before someone with less  
7 seniority that is already trained fills that  
8 position; is that right?

9 A Yes, seniority prevails.

10 Q Okay. Do the camera clerks receive, say, any  
11 special training in hazardous materials?

12 A All clerks receive the same training.

13 Q Okay. What does the utility clerk do?

14 A That's another name for a classification clerk.  
15 He arrives trains. He, too, checks them in by  
16 the camera. He arrives them.

17 Q What do you mean by arrives them?

18 A He does what we call an RMS function in the  
19 computer that shows the train's final  
20 destination, Elkhart, arrived at Elkhart.

21 Q What is RMS?

22 A It's another -- oh, boy. It's another form of  
23 computer language.

24 Q Is it a function that he performs on the  
25 computer?

1 A It's a function that says we have the cars here  
2 at Elkhart.

3 Q So is this a means to make sure that all the cars  
4 that are supposed to be arriving at Elkhart  
5 actually do arrive there?

6 A Right.

7 Q Does he do anything else or she?

8 A After he or she arrives them, then they go in and  
9 prove the nine lines.

10 Q Excuse me?

11 A The nine lines is what the car initial number  
12 tells you, the commodity, where the car is going,  
13 and then if there's any changes to be made, I'll  
14 make them.

15 Q That's nine lines?

16 A Uh-huh.

17 Q Is there something on each line?

18 A Yeah.

19 Q What's on each line?

20 A Each line has a car number initial. It will go  
21 through the entire train. There will be what we  
22 call a nine line for each car in the train that  
23 arrived.

24 Q Okay. And you said there's something that's on  
25 each one of those lines?

1 A Yes.

2 Q And what information is on each line?

3 A Okay. Each line has a car initial number, load  
4 or empty status, approximate tonnage, commodity,  
5 what's in the car, the designation and the  
6 consignee, who is going to receive the car.

7 Q And by looking at this information, does the  
8 utility clerk then input that into the computer?

9 A It's already in the computer, but he makes any  
10 changes that are necessary.

11 Q Okay. I'm sorry. I didn't know what you meant.  
12 Would that person be responsible for -- let's  
13 see -- changing the tonnage or the commodity if  
14 there were a spill of material from a car?

15 A No, he'd have nothing to do with it.

16 Q Who would make that change?

17 A The only change that would be made would be if we  
18 reweighed a car, and then the chief clerk would  
19 input the correction of weights.

20 Q Would there ever be a time when a car would maybe  
21 spill some material and would not be reweighed  
22 or would the car always be reweighed?

23 A We reweigh them as they tell us that it's -- as  
24 it's needed.

25 Q Who tells you to reweigh them; who makes the

1 decision whether or not a car needs to be  
2 reweighed?

3 A If it's an overload, we automatically would  
4 reweigh ones where the car was reduced, but  
5 otherwise we get calls from customer service  
6 people all over Conrail asking us to reweigh cars  
7 for one reason or another.

8 Q Do you ever get calls from people within Conrail  
9 or within the yard to reweigh a car?

10 A No.

11 Q Do utility clerks perform any other functions?

12 A They issue the switch list after they do the  
13 arrivals and changes.

14 Q And who are your utility clerks now?

15 A First shift would be Lynn Scheer. My second  
16 shift is presently open. It's covered by extra  
17 board people. Third shift I have a Dale Kern,  
18 who I'm instructing right now.

19 Q You mean he's being trained?

20 A Yes.

21 Q And we have an extra that works from eight to  
22 four Tuesday through Saturday, which would be  
23 Larry French.

24 Q If we could just go back for a moment to this  
25 weighing the cars or reweighing them. The

1           only -- the only people that would request a car  
2           to be reweighed would be someone outside the  
3           yard; is that --

4           A     That's normally what happens, yes.

5           Q     Does it ever occur inside the yard; in other  
6           words, does anybody working at Elkhart request  
7           that a car is reweighed?

8           A     Only if -- the only instance I can tell you about  
9           is if it was misweighed when it went over the  
10          hill, the scale malfunctioned, then we would  
11          reweigh.

12          Q     And by "the hill," you mean the hump?

13          A     Hump, yeah.

14          Q     How would that register? I mean how would you  
15          know whether it's misweighed or --

16          A     We would go into the computer -- well, how I  
17          would tell it was misweighed?

18          Q     Right.

19          A     Nothing would come up on the screen, give us a  
20          weight.

21          Q     Okay. So it's just no weight then?

22          A     Yeah.

23          Q     How would you tell if the car was misweighed; in  
24          other words, if something came up but it was the  
25          wrong weight; for example, the scale was off?

1 A We wouldn't know if it was off until they ran the  
2 scale test car over.

3 Q You mentioned the extra board.

4 A Uh-huh.

5 Q Are those people that also fill in, like, the  
6 relief?

7 A Yeah.

8 Q Okay. What's the difference between extra board  
9 and relief position?

10 A The relief is assigned to relieve each day a  
11 certain position. Extra board has to be on call.  
12 The extra board never knows what they're going to  
13 work.

14 Q Is the extra board a low seniority position?

15 A Yes.

16 Q Who is currently on your -- let's see -- the  
17 extra board?

18 A Currently on extra board is Jack Yarbrough, Tom  
19 Bays, Joe Christophel.

20 Q And who is in your relief positions?

21 A Which jobs are you asking because I was giving  
22 you the relief as they went, but I think I gave  
23 you too many relief.

24 Q You indicated that you had five relief?

25 A I was counting -- I was giving you three

1 positions in relief. There's only 21 positions  
2 total.

3 Q Then how many relief positions are there total?

4 A Let me think. If you don't count the relief that  
5 I gave you for the chief, there are five, so  
6 there will be three chiefs, three bill racks,  
7 three utility, three cameras.

8 Q I see. Okay. You mentioned that the chief  
9 clerks sort of oversee everything. Is it fair to  
10 say then that the bill rack clerks, the outbound,  
11 utility, relief and the extra board clerks are  
12 all under the chief clerk?

13 A Right.

14 Q Do any of those, that is, the bill rack,  
15 outbound, et cetera, do any of those have  
16 supervising authority over any of the others?

17 A No.

18 Q Is the turnover rather high in your office?  
19 By "rather high," I mean, like, do people come  
20 through there, say, six months or a year at a  
21 time?

22 A No. They pretty well stay there.

23 Q Like, for example, what's sort of the average  
24 length of time that somebody would stay in your  
25 office?

- 1           A     They would stay until retirement unless they got  
2                   bumped out, unless we -- what happens is if we  
3                   abolish a job, and then it starts the bumping.  
4           Q     So it sort of depends on the seniority of those  
5                   who come into those positions?  
6           A     They're pretty stable. They usually stay.  
7           Q     Where is your office located?  
8           A     Second floor in the back.  
9           Q     In the back of --  
10          A     Back of the building.  
11          Q     That's the hump tower?  
12          A     Uh-huh.  
13          Q     What unions are represented by the employees in  
14                  your office?  
15          A     It's the TCU, Transportation Communication Union.  
16          Q     Is that the only one?  
17          A     In my department, yes.  
18          Q     And who is the chairperson?  
19          A     LeRoy Krempec.  
20          Q     Is there a president of that union?  
21          A     I believe his name is Carl Eddy, but he would be  
22                  in Philadelphia.  
23          Q     If you could, briefly name and describe the  
24                  various departments at Conrail.  
25          A     I know a little bit about them, yeah.

1 Q Okay. What departments are there?

2 MR. ERMILIO: Are you talking about in  
3 Elkhart or are you talking about --

4 MR. LINDLAND: Right, in Elkhart.

5 A You have the car department, the diesel house,  
6 communication and signals, division engineer.

7 BY MR. LINDLAND:

8 Q Supervision?

9 A Division engineer.

10 Q Okay.

11 Q Any others?

12 A You have the communication and signals, which  
13 maintains the cameras, and then you have the  
14 storehouse which handles the supplies. You have  
15 the diesel house which repairs, cleans the  
16 locomotives, and you have the car department  
17 which repairs the cars.

18 Q Okay. If you could sort of generally describe  
19 how hazardous materials are handled when they're  
20 being shipped through the Elkhart yard, and I  
21 guess the best way to do this is to probably use  
22 an example and just say, you know, when a car  
23 first enters the yard, what happens if it  
24 contains hazardous materials?

25 A I can only tell you about my department, and once

1 the car arrives and it's hazardous material, of  
2 course, it's in the car arrival, we issue switch  
3 lists, and comments on the switch list will show  
4 that it's hazardous material.

5 Q Where is this switch list from?

6 A This is generated by the utility clerk.

7 Q Okay.

8 A And this goes into a computer to the yardmasters  
9 before they hump it. The list will show that  
10 it's a loaded car of hazardous material. It will  
11 give you a STCC number which tells you -- if you  
12 look up the STCC number, it will tell you the  
13 type of commodity.

14 Q The STCC number?

15 A Uh-huh.

16 Q Is that the same as S-T-C-C?

17 A S-T-C-C, yes. It also gives you identification  
18 number, which would tell you to -- where you can  
19 look it up in the books to see what it actually  
20 is.

21 Q To look it up --

22 A In the emergency response book, if it's necessary  
23 to know what the product is right away.

24 Q So the STCC number is a uniform identification  
25 number for that material?

1 A Yes.

2 Q Is that used throughout Conrail or is that like  
3 all rail transportation?

4 A I could only speak for Conrail.

5 Q Okay. Then what happens?

6 A Okay. When he does that, he makes sure he has a  
7 good waybill regardless if the car is empty or  
8 loaded.

9 Q A good waybill?

10 A Uh-huh.

11 Q By that --

12 A A waybill means it has everything on it, all  
13 information pertaining to the car and the  
14 contents.

15 Q What sort of information would be found on a  
16 waybill?

17 A If we start at the top, it gives you the car  
18 initial number, the load or empty status,  
19 approximate tonnage, contents, designation,  
20 consignee. Then as you go down through the  
21 waybill, it will describe what's in it, what the  
22 commodity is.

23 Q Does it describe the chemical content of the  
24 material or is it basically trade name  
25 descriptions?

1           A    A waybill it will give you the shipping name,  
2                   like an example, gasoline, and it will also tell  
3                   you that gasoline is a flammable liquid. It will  
4                   give you an identification number, UN or NA  
5                   number, where you can look it up, and this is for  
6                   emergency responses. Then it will give you a  
7                   placard that gasoline is a flammable, and then it  
8                   gives you an emergency response phone number.

9           Q    Okay. That sort of information is for responding  
10                   to hazardous materials?

11          A    Yes.

12          Q    What I'm interested in is strictly for  
13                   transportation. What kind of information do you  
14                   need on there?

15          A    For transportation to move the car?

16          Q    Right, the waybill for transporting hazardous  
17                   materials.

18          A    For transportation to move that car, it has to  
19                   have everything I just said on there.

20          Q    Okay. Then what happens?

21          A    That waybill is then moved to the bill rack  
22                   clerk, and that's where it stays.

23          Q    How is it moved to the bill rack clerk?

24          A    The guy physically takes it out and gives it to  
25                   him. That's where it stays until the car goes in

1 an outbound train.

2 Q Okay. Where is the car at this point?

3 A It's in the classification yard.

4 Q And what does the bill rack clerk then do with  
5 the waybill?

6 A I think I'm getting you confused. When the  
7 utility clerk pulls this waybill to take to the  
8 bill rack, the car is still in the receiving yard  
9 to be switched. I apologize. It's to be  
10 switched.

11 Q So while it's being -- while it's in the  
12 receiving yard, the waybill is removed and  
13 transferred to the bill rack clerk?

14 A Right.

15 Q And then the car is moved to the classification  
16 yard?

17 A Then it's switched to the classification yard.

18 Q Are there any documents that stay with the car  
19 while it's switched from the receiving yard to  
20 the classification yard?

21 A Just the placards that are on the car.

22 Q Is there -- okay. Is there anything that would  
23 indicate whether a car had lost material while  
24 being switched?

25 A No.

1 Q Would that information be recorded anywhere?

2 A I'd have no reason to think it had lost any.

3 Q Okay. What happens with the waybill once it gets  
4 to the bill rack clerk?

5 A It's then filed by the last digit of the car  
6 number. It stays there until such time as that  
7 car is put into an outbound train. The waybill  
8 is then pulled. It goes with the crew with the  
9 train.

10 Q Where is it pulled from, I mean physically? How  
11 is it kept?

12 A It's that little -- the pigeon holes.

13 Q That's the one you referred to earlier that used  
14 to be 70 holes and is now ten?

15 A Yeah, uh-huh.

16 Q And who has access to those?

17 A The bill rack clerk. He handles them.

18 Q Is there anybody else that has access to them?

19 A We all have access to them.

20 Q By "we all" do you mean everybody that works in  
21 the Elkhart yard?

22 A Yeah, every clerk.

23 Q Okay.

24 A The only ones that can go in and touch those  
25 waybills are the clerks that work for me.

1           Everybody in the yard is not allowed to go in  
2           there, no.

3           Q    All right. Then what happens with the waybill?  
4           I mean --

5           A    You mean once the car is in the train?

6           Q    Once the car has been reclassified or classified,  
7           I guess, and it's ready to go.

8           A    When the car is in the train, then the bill is  
9           given to the conductor with all the other  
10          paperwork. He takes that with him.

11          Q    Are the waybills for hazardous materials any  
12          different or are they -- do they look different  
13          or is there anything different about them than  
14          other waybills?

15          A    They have an endorsement at the top if it's  
16          dangerous or combustible where the other waybills  
17          would not.

18          Q    What kind of endorsement?

19          A    Computer generated with little stars all around  
20          it. It will say if this car is dangerous or if  
21          it's combustible.

22          Q    How big is a waybill, approximately?

23          A    Eight and a half by eleven, the same size as a  
24          sheet of paper.

25          Q    Okay. So it's given to the conductor, and the

1 conductor will hold those until when?

2 A He will take them to the final designation,  
3 wherever he's going to take his train.

4 Q Okay.

5 A And if somebody -- if it's only going to go so  
6 far and another crew comes on, he gives it to the  
7 other crew.

8 Q Who has access to those waybills once they are on  
9 the train?

10 A The conductor and engineer has them.

11 Q Okay. Are there any other records that are kept  
12 other than waybills and switch lists regarding  
13 transportation of hazardous materials?

14 A A copy of the 168 is kept.

15 Q And what is a 168?

16 A That shows the hazardous material cars in the  
17 train, what their placards are and where they're  
18 positioned. We also keep a copy of the train bid  
19 sheet.

20 Q Okay. If we could go back to the 168 for a  
21 moment. You said a copy of it is kept. Where is  
22 the original kept?

23 A The original goes with the train crew.

24 Q And where does the original go after the material  
25 is dropped off or delivered?

1 A To the next yard. It's taken into the clerical  
2 department.

3 Q What ultimately happens to the CT-168's?

4 A Once it reached designation, it's thrown away.

5 Q Is there a copy that is sent somewhere else; for  
6 example, to a division office or to headquarters?

7 A I don't believe so.

8 Q So a copy is kept with your yard --

9 A Yes.

10 Q (Continuing) -- or the Elkhart yard? What  
11 happens to that copy then?

12 A We keep it for approximately three months.

13 Q And is that then sent somewhere else or is that  
14 destroyed?

15 A Destroyed.

16 Q And it's destroyed by your office?

17 A Yes.

18 Q Are copies made of that copy?

19 A Well, we send the original and a copy with that  
20 train, and then we keep a copy.

21 Q The copy that you keep is that the only copy that  
22 you keep or is that then duplicated?

23 A No, that's the only copy I keep.

24 Q Are there any local -- and by local I mean city  
25 or county -- forms that need to be kept?

1 A No.

2 Q How about state?

3 A No.

4 Q Any Federal records?

5 A None that I know of.

6 Q For example, the Department of Transportation, do  
7 they require that you fill out any special forms?

8 A Such as? Can you give me an example?

9 Q No.

10 A The only forms we're required to fill out is the  
11 train bid and the CT-168.

12 Q Okay. Are there any summary reports of  
13 information found in CT-168's?

14 A We don't summarize 168's.

15 Q For example --

16 A Everything is in detail.

17 Q (Continuing) -- at the end of the month or at the  
18 end of the year, is there any sort of report  
19 that's kept that indicates how many CT-168's were  
20 filled out?

21 A We number each one daily. We start with number  
22 one at the beginning of each month.

23 Q Okay. So then you would -- so by looking at the  
24 number of CT-168's that's up, would you know how  
25 many have been issued --

1 A Yes.

2 Q (Continuing) -- previous to that?

3 A Yes.

4 Q Is there any record, though, that's kept of how  
5 many are issued each month or each year?

6 A No, there's no reason to keep one, because at the  
7 end of the month you're going to know your total.

8 Q How will you know your total?

9 A Because we start with number one at one minute  
10 after midnight at the first of the month, that's  
11 number one, and each one after that is numbered  
12 consecutively.

13 Q Okay. Is there any summary then that's kept like  
14 for the year?

15 A No.

16 Q Do you know approximately how many have been  
17 filled out this month?

18 A No, I didn't check it.

19 Q Do you know what the average is?

20 A Two or three hundred, about 278 to 300.

21 Q Two or three hundred a month?

22 A Yes.

23 Q Where are those CT-168's kept for three months  
24 exactly?

25 A I have a storage room on my floor.

1 Q Is there someone responsible for that storage  
2 room?

3 A Basically, I am. I have the clerk file them once  
4 a month for me.

5 Q And then after three months is that same clerk  
6 responsible for destroying them?

7 A No. I'll select someone to let them go.

8 Q How do you destroy them?

9 A We just put them in the trash dumpster in a bag.

10 Q Does Conrail keep a record of all the waybills?

11 A I believe they do, Philadelphia, microfiche.

12 Q Do you know how long back they keep those?

13 A No, I don't.

14 Q Why do you believe that they keep a record of  
15 them on microfiche?

16 A Because I've called and asked for waybills six  
17 months to a year old and they've been able to  
18 pull a copy and send it to me.

19 Q Have you ever asked for one back farther than one  
20 year?

21 A No.

22 Q Who do you contact when you ask for these?

23 A I usually go through a friend in customer service  
24 and they get it for me.

25 Q And who is that person?

1 A Used to be Mary Wynette.

2 Q Is it -- you said it used to be. Is it still?

3 A She's since been promoted to another department.

4 Q Is there anybody there now that you contact if  
5 you need one?

6 A Well, I could contact anybody in the customer  
7 service. It's quicker for me to get it through  
8 them.

9 Q I see. Through them then through who?

10 A The actual department, and I don't really have  
11 the name or number for them.

12 Q Okay. So you don't know how long Conrail keeps  
13 those?

14 A No, I don't.

15 Q Do you know who would know other than possibly a  
16 Mary Wynette? Who would know how long they keep  
17 those waybills?

18 A The assistant general manager, Stan Gula,  
19 G-u-l-a. He's the assistant general manager of  
20 customer service.

21 Q Okay. You referred earlier to a computer system.  
22 Is that known as the TRIMS system?

23 A Yes.

24 Q Could you briefly describe that system, I mean,  
25 like, what's it used for?

1 A Well, basically it's used for everything where we  
2 can update nine lines, change where the car is  
3 going, change the status of the car, we can go in  
4 and put the numeric class code.

5 Q Is this a personal computer or is it a main frame  
6 computer?

7 A It's main frame.

8 Q Where is the main frame located?

9 A The main frame is located in King of Prussia in  
10 Philadelphia.

11 Q King of Prussia, Philadelphia?

12 A Uh-huh.

13 Q Then is the whole Conrail line -- that is, not  
14 just the Elkhart yard -- but is the whole line  
15 sort of hooked up to this system?

16 A Yeah, but we just run off the separate lines.

17 Q Excuse me?

18 A It's one major computer system, but each one has  
19 a separate line for each division.

20 Q Okay. And what do you use it for in your office?

21 A We use it for train arrivals, updating, changing  
22 the nine lines, putting the weights in.

23 Q Are records kept of the information on that  
24 system at the Elkhart yard?

25 A Only certain things such as weights.

1 Q And why are weights kept?

2 A Conrail's instructions are to keep them for about  
3 three years.

4 Q Do you know whether the other -- whether the  
5 other forms of information are kept on records in  
6 Philadelphia?

7 A No, I don't know what they keep up there. The  
8 other thing we keep is a copy of our train  
9 arrivals.

10 Q Is this a sheet or is that just a computer  
11 generated summary of --

12 A That's a sheet of what comes in on the trains.

13 Q What kind of information is -- would be on those  
14 sheets?

15 A We go back to the nine lines again. That's  
16 what's on these train arrivals. It's a train  
17 consits.

18 Q A train --

19 A Consits, c-o-n-s-i-t-s, just like a wheel report.

20 Q How long are those kept for?

21 A Three months.

22 Q And what happens to those after three months?

23 A They're trashed.

24 Q Are there copies that are sent to Philadelphia?

25 A Oh, I don't send those in.

1 Q Do you know what records Philadelphia does keep  
2 on information from the TRIM system?

3 A No, I don't.

4 Q Do you know who would know that?

5 A Let me think. Stan Gula should be able to give  
6 you the names for the people.

7 Q Would that be somebody who runs the TRIM system  
8 out of Philadelphia?

9 A Right. He would know who it would be.

10 Q Who has access to the information on this system?

11 A Such as?

12 Q Such as somebody in the engineering department  
13 or -- who for Conrail or who at Conrail has  
14 access to changing information or like on typing  
15 in information from the computer?

16 A Well, it depends on what information you want to  
17 obtain, the trainmasters.

18 Q Is there some kind of security system built into  
19 the system?

20 A We each have an employee number and a password we  
21 have to put in to be able to get into the system  
22 and to the TRIM -- or into the computer system at  
23 all.

24 Q So once you're into the system then, does anybody  
25 have access to whatever information they want?

1 A No, no.

2 Q You --

3 A There is a limit to who can get what.

4 Q Okay. And how is that limited?

5 A That's limited again by King of Prussia.

6 Q Do they then issue secondary passwords?

7 A No. You would have to call them and ask them to  
8 set it up for you to be able to get into certain  
9 departments or certain areas. They decide if you  
10 are entitled to it or not.

11 Q What sort of information are you entitled to?

12 A Basically, the same as the clerks. We can do all  
13 the same thing except I can go in and add  
14 passwords, make it possible for other people to  
15 get in. I have a little less -- I have a little  
16 more access than they do.

17 I can go in and do some -- an entirely  
18 different field. I can go and do some customer  
19 service reporting where the clerks in Elkhart  
20 can't.

21 Q Do you know whether or not there's a field within  
22 the system where records of spills are kept?

23 A I don't know.

24 Q Do you know who would know that?

25 A Again, I'd have to refer to Mr. Gula.

1 Q Is there any kind of backup system at Elkhart for  
2 the computer system? By "backup" I mean  
3 something that automatically records all the  
4 information that's currently in the system.

5 A We just have the regular system that we have, the  
6 TRIMS. You mean, like, if it goes down?

7 Q Right.

8 A It retains all the information until the lines  
9 come back up.

10 Q Okay.

11 A It's stored in the system.

12 Q Right. Okay. And if there's a power failure,  
13 say, out at the yard and then the system comes  
14 back up, is that information still retained?

15 A Yes, it does. It stays in there.

16 Q And how long is it retained for; do you know?

17 A Some information it's seven days; some it's  
18 longer.

19 Q For example -- let's see -- information that  
20 would indicate the commodity of a rail car, do  
21 you know how long that information is retained?

22 A That varies. It can stay there until the car is  
23 completely off line and at designation, but  
24 usually it's seven days.

25 Q Whose program is this? I mean by that who wrote

1 the program; do you know? I mean not the  
2 individual but -- okay. Let's start with TRIMS.  
3 What does TRIMS stand for?

4 A TRIMS was -- Transportation Reporting Input --  
5 you've got me on the last one.

6 Q Management System?

7 A Yeah, I think something like that, but this is a  
8 system I believe Conrail bought. Again, I'd have  
9 to refer to Mr. Gula.

10 Q Okay. How long have they had this system; do you  
11 know?

12 A Approximately, to the best I can remember, seven  
13 or eight years.

14 Q Seven or eight years?

15 A Yeah, maybe longer.

16 Q Did they use this at the Ohio facility that you  
17 worked at?

18 A Yeah, just for a couple of years before I came  
19 out.

20 Q Okay. Did it work basically the same as it works  
21 now?

22 A Yeah, it works the same.

23 Q So can you access the information that would be  
24 inputted by other yards at Elkhart?

25 A Yeah.

1 Q And you have access to basically the whole rail  
2 line's information network?

3 A True.

4 Q Who has access or the ability to change  
5 information on this system?

6 A It depends for what information you're referring  
7 to. If it's as far as something at the yard, the  
8 change where you want to correct it all, we can  
9 do it right there locally, the clerks.

10 Q Okay. Do some employees have the ability to just  
11 read information and not change it; in other  
12 words, they call it write protect sometimes.  
13 Have you --

14 A In my department we all have the right to change.

15 Q Okay. So if you can read the information, then  
16 you have the ability to change it?

17 A Yeah.

18 Q And do you have the ability to change, for  
19 example, information regarding the yard, say, the  
20 buildings in the yard or the drainage system in  
21 the yard?

22 A No, I have nothing to do with any of that.

23 Q Okay. Is there any other kind of security system  
24 attached or that is part of this system?

25 A I don't believe so.

1           Q    When you say that the people in your office can  
2                change the information on it, how do they change  
3                it? Do they just read off -- for example, if  
4                there's some new information based on a waybill  
5                or a switch list, do they just write that  
6                information off it and type it in?

7           A    They can do that or the computer can  
8                automatically update when there's changes made in  
9                the waybill.

10          Q    How does that happen?

11          A    That is programmed in. I couldn't explain that.

12          Q    Is there something on the waybill that indicates  
13                to the computer that information, for example,  
14                like one of those black stripes or something?

15          A    No. It's just that if they go in and make a  
16                correction on the waybill, it will override and  
17                update the nine line.

18          Q    Okay. I think I'm confused. How would  
19                information that has been changed on the waybill  
20                how is that read by the computer?

21          A    I can't explain how they have it set up. That's  
22                all in the programming.

23          Q    Okay. But suppose I'm holding a new waybill  
24                that's been changed, I mean, how does the  
25                computer know this has been changed unless I

1 stick it in it or -- I mean is there --

2 A Well, let's see. It's the mechanics of the  
3 computer system, the way they have it programmed.  
4 You don't take a piece of paper and put it in.  
5 You manually type -- manually type stuff in.

6 Q Okay.

7 A And it might be done at the custom operations  
8 center in Lansing or any of the centers on  
9 Conrail.

10 Q Okay. So it's not actually changing a piece of  
11 paper then; it's changing the information that  
12 would be on that piece of paper?

13 A Right.

14 Q Okay. So who is responsible then for changing  
15 that information, for example, on a waybill?

16 A The waybills are all corrected in the customer  
17 operations centers.

18 Q And is there one of those centers in each yard?

19 A No, one in each division, which we now moved them  
20 all into Pittsburgh. They're closing them down.

21 Q They're closing them down?

22 A Uh-huh.

23 Q So it will be consolidated into one office?

24 A Consolidated to the national customer service  
25 center.

1 Q Okay. For example, suppose a tank car spills  
2 material, say, milk, what -- how is that -- the  
3 information regarding that spill relayed from the  
4 yard to the division and then that from the  
5 division into the TRIM system?

6 A Since I've never been involved in one, I couldn't  
7 tell you.

8 Q Is there a procedure that is set up for changing  
9 that information?

10 A That would probably be handled by the terminal  
11 superintendent.

12 Q The terminal superintendent --

13 A Yeah.

14 Q (Continuing) -- would do that?

15 Okay. So if there was a spill or a change  
16 in commodity in a car, your office would not be  
17 involved in actually making the changes?

18 A Are you referring to if they transfer a load --

19 Q If they transfer --

20 A (Continuing) -- from one car to another?

21 Q Is there a difference if they transfer a load  
22 versus if there's a spill? Does it --

23 A Well, a spill is one thing and a transfer is  
24 where they take one car and put it into another.

25 Q Is there a difference as to who would send that

1 information to the division?

2 A If there's a transfer, I would be involved  
3 because the car shop would handle that, and they  
4 would send me a little pink slip that says,  
5 transfer from this car to this car, and then we  
6 would input it as a change into the computer,  
7 then I would notify the customer operations  
8 center that this commodity was taken from this  
9 car and put into another, then they would correct  
10 the waybill.

11 Q Okay. Who is in charge of the customer operation  
12 center at Elkhart?

13 A Elkhart is handled under Lansing, Illinois, which  
14 is Dale King.

15 Q You mentioned there was a pink slip that would be  
16 handed to you.

17 A It would be sent up from the car department to  
18 the clerical department.

19 Q And what is that pink slip called?

20 A Transfer slip.

21 Q Does that transfer slip have a CT number?

22 A I don't recall.

23 Q Do you know how long transfer slips are retained  
24 at the Elkhart yard?

25 A In my own personal file, I've had them since I

1           came out in '85.

2           Q     Since '85?

3           A     Uh-huh.

4           Q     Do you know where the transfer slips are stored  
5                 by -- that were used prior to '85?

6           A     No, I don't. Mine are only copies. I don't get  
7                 the original.

8           Q     Okay. This question may seem sort of unrelated,  
9                 but I actually -- I just forgot to ask you. Who  
10                is your immediate -- let's see -- predecessor?

11          A     Hal Brandt.

12          Q     Hal Brandt?

13          Q     Uh-huh.

14          Q     And do you remember who his --

15          A     Oh, let's see. There was about eight of us at  
16                 that time. He worked for Walter Wood. He was  
17                 right there at the yard.

18          Q     Okay. So was Walter Wood the supervisor prior to  
19                 Hal?

20          A     He was the manager, yes. Prior to Hal, I'm not  
21                 sure who was the supervisor.

22          Q     Okay. Is Hal Brandt still at the yard?

23          A     He's in the Pittsburgh national customer service  
24                 center.

25          Q     Do you know how long he was the supervisor?

1 A I don't know for sure, but he was there for  
2 several years.

3 Q Less than ten?

4 A I believe so.

5 Q More than five?

6 A I don't know.

7 Q Okay. Do Conrail employees usually take their  
8 records with them when they move to a new  
9 position?

10 A Not normally.

11 Q But when you started as supervisor, there were no  
12 transfer slips from when Hal was the supervisor,  
13 right?

14 A I have not seen them.

15 Q Okay. Is it possible that they are in your  
16 office and you haven't seen them?

17 A I don't think so.

18 Q I always sort of come across documents that I  
19 haven't seen but are in my office.

20 What information exactly is on a transfer  
21 slip?

22 A It will give you the car initial number, what the  
23 commodity was, the date it was transferred and  
24 the car it was transferred to, again, car initial  
25 number.

1 Q Is there any special indications for hazardous  
2 materials that would be identified on the trains  
3 per slip?

4 A I don't recall ever seeing one that had hazardous  
5 material.

6 Q But generally I mean for these sorts of transfer  
7 slips, is it just one kind of transfer slip?

8 A One kind, yes.

9 Q What is the -- you say the commodity. Is it the  
10 STCC number?

11 A They usually write out what it is, not the STCC  
12 number. They'll say it was gasoline or if it was  
13 steel rods or if it was paper.

14 Q Is the chemical content ever listed on these?

15 A I don't recall seeing it on there.

16 Q Who normally fills out a transfer slip?

17 A Those come from the car department.

18 Q And who supervises the car department?

19 A He's a new man. I believe his name is Gary Yost.

20 Q He's new?

21 A Uh-huh.

22 Q Do you know who was the supervisor before him?

23 A Ken McGregor.

24 Q Ken McGregor. Is Mr. McGregor still there?

25 A No, he's not there anymore.

1 Q His name is Ken?

2 A Ken, uh-huh.

3 Q How long has Mr. Yost been there?

4 A I'd say a month.

5 Q A month?

6 A Uh-huh.

7 Q Do you know where Mr. McGregor is now?

8 A No, I don't.

9 Q Do you know who was the supervisor of the car  
10 department prior to Mr. McGregor?

11 A Ed Sharp.

12 Q Ed Sharp?

13 A Uh-huh.

14 Q And when did Ed Sharp cease to be the supervisor  
15 and when did Ken take over?

16 A I can't gave you the exact year. I don't know if  
17 it was '89 or '90.

18 Q Do you know if Ed Sharp is still there at the  
19 Elkhart yard?

20 A No, he's not there, but he's still with Conrail  
21 out east.

22 Q Do you know where?

23 A No. All I know is Pennsylvania.

24 Q Okay. Are copies of transfer slips made and sent  
25 to any other office other than your office?

1       A     I don't know where they send their slips to.

2       Q     Do you know who would know?

3       A     Gary would know who we send them to.

4       Q     Do you know if any summaries of transfer slips

5             are kept?

6       A     I don't know.

7       Q     Do you know whether any records regarding

8             transfer slips are kept?

9       A     I don't know.

10      Q     Again, that would be Gary Yost?

11      A     Yeah.

12      Q     We were talking about how the information from

13             these slips would be inputted into the TRIM

14             system. Who is responsible for putting that

15             information into the system?

16      A     As far as the transfer, my clerks would show it

17             as a transfer from one car to the other.

18      Q     Which clerks would that be, utility clerks?

19      A     Any of them. I would show -- whichever one I had

20             available to show how to do it.

21      Q     Approximately how often does a transfer occur

22             invoking this --

23      A     Very rare. It's very rare we receive one.

24      Q     Like a month?

25      A     Let's go maybe two, three every six months.

1 Q Why would a transfer have to occur, if you know?

2 A In some cases the car was unreparable so we had  
3 to get another car in.

4 Q Would that ever happen if there was a leak in a  
5 car or a spill of any kind?

6 A I've never had anything to do with a leak or a  
7 spill so I couldn't answer.

8 Q Do you recall a leak of hydrochloric acid in 1986  
9 at the Elkhart yard?

10 A Huh-uh, no.

11 Q Would there ever be an instance where there would  
12 be a transfer in your office and you would not  
13 know about it?

14 A Oh, sure, yes. I'm sure it's happened.

15 Q Who decides whether to notify your office of a  
16 transfer?

17 A The car department generally does the transfer,  
18 and if they don't get a copy of the transfer to  
19 me, I would never know it was done.

20 Q I mean is there some sort of procedure on how  
21 they would give you a transfer slip?

22 A I don't know what the procedures are.

23 Q You mentioned that you get two or three transfer  
24 slips every six months. Why do they give you  
25 those transfer slips?

1           A     Because I'm supposed to report the transfer from  
2                   one car to the other in the computer. Sometimes  
3                   it's verbal and then they send the slip up three,  
4                   four days later.

5           Q     But ultimately do you get the transfer slip after  
6                   the transfer?

7           A     I can't say I get them all, no.

8           Q     So it's possible for there to be a change or a  
9                   transfer and then that information is never  
10                  inputted into the system?

11          A     Uh-huh.

12          Q     You mentioned that you have received one of these  
13                  transfer slips two to three times every six  
14                  months. Is that true since 1985?

15          A     Well, they're very rare. You can't really put  
16                  a -- pin it down to how many, but I have what I  
17                  receive on file and it's not that often.

18          Q     Okay. Do you know whether Gary Yost keeps a  
19                  record of all transfers?

20          A     I can't answer for him. I don't know what he  
21                  does.

22          Q     Okay. How often does the TRIM system go down, as  
23                  you say, or fail?

24          A     Well, they'll take the system down maybe for an  
25                  hour to update, but you know in advance when it's

1 going to happen. They'll send out wires.

2 Q Who is they?

3 A King of Prussia.

4 Q So when they do some updating, they will notify  
5 all the yards that this system will go down?

6 A Yeah.

7 Q Why do they update it?

8 A I can't answer -- I can't answer for them other  
9 than they update the programming each time.

10 Q Like what kind of information or is it not  
11 information that they put in?

12 A That I couldn't even begin to get into, not into  
13 the computer language.

14 Q Okay. I guess what I'm asking is do they change  
15 information regarding, you know, the commodity or  
16 you know, the train numbers --

17 A No.

18 Q (Continuing) -- that kind of information?

19 A No, they're not changing that. They're getting  
20 into the computer language, like, they'll say  
21 computers will RMS or TRIMS will be done from  
22 such and such time till such and such time. You  
23 cannot arrive trains or you can't do this,  
24 they're downloading, uploading, and I don't know  
25 what they mean by downloading and uploading.

1           It's something they are doing.

2           Q    Okay.  What -- you mentioned, for example, if you  
3           get a transfer slip, the information is then  
4           changed into the TRIM system --

5           A    Uh-huh.

6           Q    (Continuing) -- right?

7                   How else is the TRIM system used in your  
8           office other than changing information?

9           A    I'm not quite sure.  I know what you mean  
10          because we went through -- we did the train  
11          arrivals, we update nine lines, we change the car  
12          designations when necessary.  We put --

13          Q    For example, do you use the system to, say, print  
14          out a hard copy of information other than  
15          waybills?

16          A    Our wheel reports, which go to the engineers --  
17          conductors, rather.

18          Q    So the wheel reports are based on the information  
19          that's in the TRIM system?

20          A    Yeah.  We get a hard copy.  A hard copy is  
21          produced and we give it to the crew.

22          Q    So is a copy then kept at the railyard of the  
23          wheel report?

24          A    No, it's kept in Lansing, Illinois, the COC  
25          center.

1 Q COC center?

2 A That's custom operations center down at Lansing.

3 Q Do you know who is in charge of that?

4 A Dale King.

5 Q Do you know how long they keep those?

6 A No, I can't answer for him.

7 Q Do you know whether Philadelphia has a copy of  
8 wheel reports?

9 A No, I don't know.

10 Q Is the chemical constituents of hazardous  
11 materials kept in the TRIMS system?

12 A I'm not sure if I know what you mean.

13 Q For example, you said that -- you used gasoline  
14 as an example. Would the system indicate what  
15 was in the gasoline?

16 A The system would indicate that it would be a  
17 flammable liquid.

18 Q Okay.

19 A And what you would do if something happened, if  
20 you're supposed to be upwind, if it would bother  
21 your lungs or what it would do, if it would give  
22 you a detail of that.

23 Q Who generates that information?

24 A Again, that comes out of the system, so I would  
25 imagine it comes out of King of Prussia, whoever

1 does all the programming.

2 Q Is there any name or like a trade name or  
3 anything that comes out on those --

4 A No.

5 Q (Continuing) -- those procedures?

6 So as far as you know, there's no sort of  
7 ingredients for products that are sent? I'll use  
8 another example, I think.

9 If, say, Borax cleaner was sent, would the  
10 ingredients that go into Borax cleaner be found  
11 in the --

12 A No.

13 Q (Continuing) -- in the system?

14 A No.

15 MR. LINDLAND: Are you doing okay? Do  
16 you want to take a break?

17 (Whereupon the noon recess was taken.)

18 BY MR. LINDLAND:

19 Q Is there a way to generate a current listing of  
20 cars that are carrying hazardous materials  
21 through the TRIM system?

22 A Only by car numbers.

23 Q So you would have to know the car number, enter  
24 that and then the data would come up?

25 A Yeah, uh-huh.

1 Q Is there a listing of car numbers available at  
2 the Elkhart yard for just cars that have  
3 hazardous materials in them?

4 A No, no.

5 Q Is there any kind of report or is there any kind  
6 of way that you can access that information, for  
7 example, with the TRIM system? Is there a way  
8 you can type in "Haz equals" and get a bunch of  
9 car numbers?

10 A No, no, you wouldn't get car numbers. There's  
11 only one report that's possible, but it would be  
12 by car type, like, "T" for tank --

13 Q Okay.

14 A (Continuing) -- but you would get general service  
15 tank cars, also.

16 Q So you would input "T" for tank into TRIMS and  
17 you would get a list of car numbers?

18 A Under a certain program, yeah.

19 Q Okay. And that would give the current sort of  
20 information in TRIMS?

21 A Yeah, by car number only.

22 Q But then you could input each one of those car  
23 numbers to get the material in each tank?

24 A Uh-huh.

25 Q Okay. And how old is the information in there;

1           for example, how -- I mean those car numbers how  
2           long do they stay in there?

3           A     Average things stay in seven days.

4           Q     Seven days. Okay. How many terminals are there  
5           at the Elkhart yard for TRIMS? How many TRIMS  
6           terminals are there; do you know?

7           A     Let me think. I have seven on my floor and two  
8           on the trainmaster's floor that are set up for  
9           TRIMS.

10          Q     So it would be nine in your building alone?

11          A     Uh-huh.

12          Q     Are there terminals in other parts of the yard?

13          A     There's terminals in every building, but they're  
14          not all set up for TRIMS.

15          Q     Which ones are set up for TRIMS?

16          A     Just on my floor and the trainmaster on the next  
17          floor.

18          Q     Okay. You mentioned that if you type in "T" for  
19          tank you will get a list of numbers, of car  
20          numbers, you know, representing the tank cars.  
21          What other inputs can you do to get car number  
22          information?

23          A     Under this one program, you could ask for by  
24          commodity, designation, different ways you could  
25          ask for it.

1 Q So if you type in "C," for example, you would get  
2 the commodity?

3 A I think you have to -- I never use it, but I  
4 believe -- I think I've used it once or twice.  
5 You have to type in the actual commodity that you  
6 want, like, if it's paper.

7 Q Okay. So you put in the kind of commodity, and  
8 it will tell you whether or not it's in a certain  
9 car?

10 A It will give you a car number initial, yeah.

11 Q Okay. What about the range of weights, if you  
12 put in, say, 1,000 to 2,000 pounds?

13 A No, there's no such report for that.

14 Q Okay. All right. You mentioned earlier a switch  
15 list.

16 A Uh-huh.

17 Q Where are those kept?

18 A We keep our copy on the floor, our floor. We  
19 file them by month.

20 Q By month?

21 A By month, by day. We break it down by day, by  
22 month. We have a drawer for April -- not April,  
23 but September, one for October, one for November,  
24 and then each day whatever is switched goes into  
25 one envelope with a date on it.

1 Q And how long are those kept then?

2 A Three months.

3 Q And what happens after three months?

4 A We throw them away.

5 Q Who keeps those?

6 A I basically maintain them.

7 Q In your office?

8 A The chief clerk files them in the cabinet, and I  
9 see to it that they -- when they are destroyed.

10 Q Who else gets copies?

11 A The switch tender, the trainmaster and the hump  
12 conductor upstairs.

13 Q And how long do they keep their copies?

14 A I don't know.

15 Q Do you know whether copies are sent to the  
16 headquarters office in Philadelphia?

17 A To the best of my knowledge, none are sent  
18 anyplace.

19 Q Who keeps them in the switch tender's office; do  
20 you know?

21 A If they keep them at all, the switch tender  
22 would.

23 Q And the yardmaster is the same?

24 A Uh-huh.

25 Q Are these like carbon copies or are they

1                   actually --

2           A     Actually hard copies.

3           Q     Were they photocopied then?

4           A     No, the actual hard copy that comes over each  
5                 printer.

6           Q     And what form are they in? Is it an eight and a  
7                 half by eleven piece of paper?

8           A     Yeah, they're all connected together.

9           Q     So they're attached like with a perforated --

10          A     Perforated, yeah.

11          Q     Has the form of switch lists changed throughout  
12                 the time you've been employed by Conrail?

13          A     Since we've been issuing it by TRIMS, no, it's  
14                 been the same.

15          Q     But then prior to TRIMS, how was that system  
16                 operated?

17          A     It was with IBM cards. We would type them out,  
18                 the nine line, on the IBM card and run it through  
19                 a deck reader.

20          Q     What is a deck reader?

21          A     It's a machine that reads the IBM cards and  
22                 prints it on an eight and a half by eleven sheet  
23                 of paper.

24          Q     Are you talking about the IBM cards with the  
25                 holes in them?

1 A Yeah.

2 Q Do you know whether or not copies or the actual

3 hard copies of those cards are kept at Elkhart?

4 A No, we don't have them anymore.

5 Q Do you know whether there are any copies anywhere

6 of those cards?

7 A I couldn't answer that, but I -- no, I couldn't

8 answer that.

9 Q Do you know who could answer it?

10 A Maybe Mr. Gula.

11 Q Okay. If they are kept by copy in Philadelphia,

12 who would we contact to get these; do you know?

13 A I don't know any of them up there. I can't help

14 you with that.

15 Q What about in -- in the division; do you know who

16 would have them there?

17 A Truthfully, I don't know any other divisions.

18 Stan Gula would know the names.

19 Q Are there any CT numbers on the switch lists?

20 A No.

21 Q Is there a CT form number assigned to those?

22 A Not on the switch list, no.

23 Q And do all Conrail terminals use the same kind of

24 switch list?

25 A Yeah.

1 Q So everybody is on the same system, basically?

2 A Yeah.

3 Q What about a train data record; are you familiar  
4 with that term?

5 A I'm not sure if I know what you mean, train data  
6 record. I have a train data sheet.

7 Q Okay. Explain to me what a train data sheet is.

8 A The train data sheet is where it shows you the  
9 locomotive number, the conductor and engineer  
10 name, total amount of loads and empties on the  
11 train, your total tonnage.

12 Q The total metal loads and empties? I'm sorry; I  
13 didn't understand --

14 A Total loads and empties of cars that are in the  
15 train and tonnage, any exceptions such as  
16 high-wide, excessive dimensions and hazardous  
17 material. That's our train data sheet.

18 Q And you keep those in your office?

19 A They're all kept in the storage room, all files  
20 are.

21 Q Storage room in the hump tower?

22 A Yeah, on my floor.

23 Q And how far back are the train data sheets  
24 recorded?

25 A Three months.

1 Q Three months. Are there copies?

2 A No, they're the originals.

3 Q Okay.

4 A I'm sorry; they are copies. The original goes to

5 the crew.

6 Q Okay. The original goes with the crew. Where

7 does the original end up after the train reaches

8 its destination?

9 A It's turned in at the designation at the

10 receiving yard.

11 Q Do you know where it goes then?

12 A No, I don't.

13 Q Do those ever end up in the receiving yard at

14 Elkhart?

15 A Yes.

16 Q And if a -- suppose a car, its final destination

17 is Elkhart and it has a train data sheet, where

18 does the train data sheet go at Elkhart?

19 A It goes to the utility clerk when she does the

20 classifying.

21 Q And what does the utility clerk do with that

22 sheet?

23 A Usually throws it away after he arrives his

24 train.

25 Q Okay. Do you know whether any copies are made?

- 1 A No, none are made.
- 2 Q What form are train data sheets in?
- 3 A It's about a third of the size of this so --
- 4 Q That's a third of the size of an eight and a half
- 5 by eleven piece of paper?
- 6 A Yeah.
- 7 Q Has the form changed since you've been employed
- 8 by Conrail?
- 9 A One minor change.
- 10 Q And what change is that?
- 11 A With where the position of the cars are in the
- 12 train that has the original, and then if they're
- 13 moved, it has the -- another column where it
- 14 shows the correction was made.
- 15 Q So in the newer form it shows a change in train
- 16 position?
- 17 A Uh-huh, car position.
- 18 Q Or -- right, car position. So the earlier forms
- 19 didn't have that information; is that correct?
- 20 A Correct.
- 21 Q When did this change occur?
- 22 A Several years ago.
- 23 Q Less than five?
- 24 A Yeah, less than five.
- 25 Q Is there any identifying number on a train data

1 sheet?

2 A It's a CT-364.

3 Q And do all Conrail terminals use that form?

4 A I can only answer for Elkhart. We do.

5 Q Okay. Have you seen that form come into the  
6 receiving yard from another yard?

7 A Yes, yes. I've seen it come in, yes, you're  
8 right. Others do use it.

9 Q Okay. Are you familiar with a bid, b-i-d?

10 A Yeah. Are you referring to the train bid sheet?

11 Q Right.

12 A That's the same thing.

13 Q That's the same thing?

14 A Uh-huh.

15 Q Are there records pertaining to union complaints,  
16 worker complaints or neighbor complaints  
17 regarding the transportation of hazardous  
18 materials?

19 A I don't have any.

20 Q Does somebody else have some?

21 A I couldn't answer for the other departments.

22 Q Have you ever heard of one?

23 A No.

24 Q Have you ever heard of Miles Laboratory?

25 A Yeah.

1 Q How do you know Miles Laboratory?

2 A It's one of our customers.

3 Q Do you know what they -- what they purchase or  
4 what Conrail sends to them?

5 A Citric acid.

6 Q Citric acid?

7 A Uh-huh.

8 Q Do you know if they receive any other kind of  
9 material from Conrail?

10 A I don't believe so.

11 Q How do you know it's citric acid?

12 A Because I've talked to them. They've released  
13 cars with me before.

14 Q Released cars?

15 A When they could not get a hold of the COC center  
16 and you have to call in to release the car.

17 Q Okay. Are you familiar with the term "residue"  
18 as it pertains to a tank car?

19 A Yeah.

20 Q Are there records regarding cars that contain  
21 residues?

22 A What kind of records are we referring to?

23 Q In other words, is there a compilation of or a  
24 listing of cars that contain residues at the yard  
25 at any given time?

1 A No.

2 Q Are you familiar with a company called Carpenter?

3 A Yes.

4 Q How are you familiar with that company?

5 A They are one of our customers.

6 Q Do you know what they -- what material is  
7 delivered to Carpenter from Conrail?

8 A Well, I'm not sure. It's one of two, and I'm not  
9 positive which it is.

10 Q What are the two?

11 A One would be poison.

12 Q Just poison?

13 A Yeah. That's the only one I can think of for  
14 now.

15 Q Are there any purchase records, any purchase  
16 agreement records or billing records kept in your  
17 office regarding customers who purchase hazardous  
18 materials?

19 A Not in my office.

20 Q Whose office would that --

21 A Be in the customer operations center, be in  
22 Lansing.

23 Q And who is in charge of that office again?

24 A Dale King.

25 Q Do you know how long Mr. King's been with

1 Conrail?

2 A No, I don't.

3 Q Do you know how long he's been in charge of the  
4 customer operations office?

5 A I'd say at least three years.

6 Q Do you know of anybody else who has been in  
7 charge of that office?

8 A Jim Shepherd.

9 Q Jim Shepherd?

10 A Uh-huh.

11 Q Do you know how long that office keeps their  
12 records?

13 A No, I don't.

14 Q Do you know anything about the records kept in  
15 that office?

16 A No, I don't.

17 Q Do you know whether there are any records  
18 regarding union complaints kept in any of the  
19 other offices --

20 A No, I wouldn't know that.

21 Q (Continuing) -- at Elkhart?

22 Okay. Are you familiar with the term  
23 "community right to know"?

24 A Do you want to explain it to me?

25 Q There's a phrase known as "community right to

1 know." I'm just asking you whether you have  
2 heard of that phrase.

3 A No, I haven't.

4 Q Do you know whether there are records that are  
5 kept regarding hazardous materials that are  
6 transported with respect to identifying those to  
7 the community?

8 A Not in my department.

9 Q In someone else's department?

10 A I can't answer for them.

11 MR. LINDLAND: Would you mark this,  
12 please?

13 (Plaintiff's Deposition Exhibit No. 2  
14 marked for identification.)

15 BY MR. LINDLAND:

16 Q I'll hand you what's been marked as Plaintiff's  
17 Exhibit No. 2. Have you seen this document  
18 before?

19 A No, I haven't.

20 Q Do you recognize the CT number at the top as  
21 CT-225?

22 A I recognize the number, but I'm not putting it  
23 together with anything yet. This I haven't seen.  
24 These I have posted.

25 Q You're referring to the back -- what's been date

1 stamped 02244?

2 A Yeah.

3 Q And where have you seen those posted?

4 A I have them posted by the outbound clerk for  
5 reference.

6 Q Is it exactly in this form?

7 A Similar.

8 Q Do you recognize this document as a Conrail  
9 document?

10 A I can't say that, no.

11 Q Are you familiar with the term "CHEMTREC"?

12 A Yes.

13 Q How are you familiar with that?

14 A Because of hazardous material, emergency  
15 response.

16 Q Are there any records that are kept regarding  
17 CHEMTREC at the Elkhart yard?

18 A Not in my office.

19 Q In someone else's office?

20 A Possibly in transportation.

21 Q And who is in charge of transportation?

22 A Jeff Geary.

23 Q But there are no records in your office regarding  
24 CHEMTREC?

25 A No.

1 Q If there's an accident or a spill at the Elkhart  
2 yard and the local authorities are notified, are  
3 records regarding that notification kept at  
4 Elkhart?

5 A Again, I couldn't answer that.

6 Q Are they kept at your office?

7 A No.

8 Q Are you familiar with the Bureau of Explosives?

9 A Yes.

10 Q How are you familiar with them?

11 A That is the book that we use -- it's from the  
12 BOE -- the BOE 6000 I referred to.

13 Q Is that the only understanding you have of BOE or  
14 the Bureau of Explosives?

15 A That's the only dealing I have, yes.

16 Q Do you have any records in your office regarding  
17 either phone calls or notes with respect to the  
18 Bureau of Explosives?

19 A No.

20 Q Do you know whether those records exist out at  
21 Elkhart?

22 A I couldn't answer that.

23 Q Are you familiar with the Department of  
24 Transportation?

25 A In what respect?

- 1 Q Have you ever heard of them?
- 2 A As far as the railroad or the organization?
- 3 Q I'm sorry, with respect to Conrail and the
- 4 Elkhart yard.
- 5 A No, no. I've never dealt with them.
- 6 Q Are there any records in your office regarding
- 7 the Department of Transportation?
- 8 A No.
- 9 Q Other than the BOE-6000?
- 10 A Right.
- 11 Q Are you familiar with the system operation
- 12 office?
- 13 A No.
- 14 Q Are you familiar with any environmental --
- 15 A Excuse me. The system operation office, the
- 16 Conrail operation office?
- 17 Q Yes.
- 18 A We have -- I have a name that if I am uncertain
- 19 about a hazardous material, that I can call and
- 20 verify.
- 21 Q And that's a name at the system operation office
- 22 at Conrail?
- 23 A At Conrail, the Conrail office.
- 24 Q And is that in Elkhart or Philadelphia?
- 25 A Philadelphia.

1 Q Who is that person?

2 A I can't think of his name right this minute. I  
3 have it in my book, but I can't think of his  
4 name.

5 Q Okay. What kind of information would you be able  
6 to get from this person?

7 A Example, if I was not sure of a commodity, if I  
8 could not find the IDOT number and I was not  
9 clear in my mind what it meant, I could call him.

10 Q When you say the IDOT number, is that the same as  
11 the STCC number?

12 A No. That is a different type of number. It's a  
13 UN number or an NA. A UN number would be system  
14 wide, United Nations.

15 Q Okay. So it's not a Conrail designated number?

16 A No.

17 Q Whereas the STCC number is?

18 A Yes.

19 Q But they both would -- they both identify  
20 basically the same thing, right?

21 A Uh-huh, yeah.

22 Q Would there be any other reason you would contact  
23 the system operation office?

24 A No.

25 Q Do you have any records of when you have

1 contacted the system operation office?

2 A No.

3 Q Any phone records, notes, memos?

4 A No.

5 Q Have you ever sent a letter to the system  
6 operation office?

7 A No.

8 Q Has the office ever sent one to you?

9 A No.

10 Q Are you familiar with the state environmental  
11 agency? I believe it's the Indiana Department of  
12 Environmental Protection.

13 A I know who you're referring to, but I have never  
14 dealt with them.

15 Q Do you know if there's any records in your office  
16 regarding the state environmental agency?

17 A Not in mine.

18 Q Do you know whether there are any records at the  
19 Elkhart yard?

20 A I couldn't answer for the others.

21 Q Are you familiar with the National Transportation  
22 Safety Board?

23 A Again, I'm familiar with the name, but I've never  
24 dealt with them.

25 Q Are there any records in your office regarding

1 the National Transportation Safety Board?

2 A No.

3 Q Are you familiar with the term "emergency  
4 coordinator" with respect to handling hazardous  
5 materials?

6 A Yeah.

7 Q Are there any records in your office regarding  
8 the emergency coordinator?

9 A No.

10 Q Do you know where those records would be kept?

11 A Transportation.

12 Q That's with Mr. Geary again?

13 A Uh-huh.

14 Q Are you familiar with the procedures of  
15 responding to spills or releases of hazardous  
16 material at the Conrail yard?

17 A Not all the procedures, no.

18 Q Are you familiar with any of them?

19 A A couple of them.

20 Q And which procedures are those?

21 A Where they would notify the CHEMTREC if there was  
22 an emergency, if there was something happening,  
23 and get a copy of the waybill and the HazMat,  
24 which again is the -- that's about it.

25 Q So if there were a spill and they would notify

1           this CHEMTREC, they would get a copy of the  
2           waybill and the HazMat form from you?

3           A     They could get it from me or they could pull it  
4           out of the computer themselves.

5           Q     How would your office be involved with a spill?

6           A     Actually, we wouldn't other than pulling the  
7           paperwork for them if they needed us to.

8           Q     And what paperwork form would that be?

9           A     The waybill, the HazMat.

10          Q     Are there any other forms?

11          A     No.

12          Q     Again, there's no records in your office  
13          regarding communication with CHEMTREC?

14          A     No.

15          Q     Are there any records kept in your office  
16          regarding any reports or investigations into  
17          spills?

18          A     No.

19          Q     Are there any notes or records kept in your  
20          office by personnel who report spills?

21          A     No.

22          Q     Do you know where those records are kept?

23          A     I don't know.

24          Q     Do you know whether they are kept?

25          A     I don't know.

1 Q Do you have any maps, drawings or damage reports  
2 that are kept in your office regarding spills?

3 A I have nothing regarding spills.

4 Q What sort of computer generated data would  
5 someone want or get from the TRIMS system  
6 regarding a spill of hazardous materials?

7 A The waybill would be one of them. That would  
8 show who the shipper was. The second would be  
9 the HazMat to tell you how to respond.

10 Q Okay. Are there any records kept in your office  
11 regarding contacts with local emergency agencies?

12 A No.

13 Q Are you familiar with a channel, a radio channel,  
14 that's designated as an emergency channel?

15 A No.

16 Q What is the 49 series STCC number?

17 A It indicates hazardous material.

18 Q So that's the first two numbers of an STCC number  
19 that would have hazardous materials?

20 A Yes.

21 Q What other numbers are included in the number?

22 For example, if 49 designates that it's hazardous  
23 materials, what are the -- what do the other  
24 numbers designate?

25 A The actual commodity, what it is.

- 1 Q Is there a listing of those numbers?
- 2 A Yes. We have a commodity book.
- 3 Q A commodity book?
- 4 A A commodity code STCC book.
- 5 Q Do you know what the commodity -- or the STCC
- 6 number is for trichloroethylene?
- 7 A No, I don't know.
- 8 Q How about carbon tetrachloride?
- 9 A No, I don't.
- 10 Q How does the computer or the TRIMS system
- 11 generate a STCC number; in other words, how is
- 12 that number inputted and how do you access it?
- 13 A On a waybill or on a HazMat?
- 14 Q On a waybill.
- 15 A I don't do waybills so I'm not sure.
- 16 Q How about a HazMat?
- 17 A You would enter the HAZ and the STCC number and
- 18 it would give you a HazMat printout.
- 19 Q Is there anything else inputted other than that?
- 20 A That and the STCC number.
- 21 Q Are there any records in your office regarding
- 22 the identification of a lead environmental agency
- 23 that would respond to a spill of hazardous
- 24 materials?
- 25 A No.

1 Q Are there any records in your office regarding  
2 the personnel that are in charge of overseeing  
3 the response to a spill at Conrail?

4 A No, there's nothing.

5 Q Employee records or anything like that?

6 A No.

7 Q Are there any records in your office regarding  
8 any claims made by personnel involved in a spill  
9 or accident?

10 A No.

11 Q Are you familiar with the terms "unusual  
12 occurrence"?

13 A Yes.

14 Q How are you familiar with those terms?

15 A "Unusual occurrence" covers a wide area. I will  
16 use it in a report I send if something out of the  
17 ordinary happens in my department.

18 Q So it's a general sort of term applied to all  
19 kinds of events?

20 A True.

21 Q Are there any records in your office regarding  
22 the labor relations department with respect to  
23 hazardous materials handling or spills?

24 A No.

25 Q How about any records regarding the public

1           affairs department or between the public affairs  
2           department --

3           A     No.

4           Q     You mentioned earlier a CT-168.

5           A     Yeah.

6           Q     Where are those kept?

7           A     By the bill rack clerk, outbound clerk.

8           Q     How long are they kept for again?

9           A     Three months.

10          Q     Are there copies made of those?

11          A     We keep a copy on file for three months.

12          Q     And where -- and the original goes with the  
13          train?

14          A     Yes.

15          Q     Do you know if any other copies are kept?

16          A     No, there's no others.

17          Q     Has the form for keeping a 168 changed since you  
18          started at Conrail?

19          A     It has, yes. A couple years ago it had the first  
20          and -- it had the position of the car.

21          Q     Okay. But that's the only change --

22          A     Yes.

23          Q     (Continuing) -- that you're aware of?

24                   All right. Are you familiar with a form  
25                   CT-65?

1 A No.

2 Q Are you familiar with any other written records  
3 regarding accidents, leakage, derailments or any  
4 incidents involving hazardous materials?

5 A None.

6 Q Do you keep any records in your office regarding  
7 phone calls or notes regarding the handling of  
8 hazardous materials?

9 A Any phone calls or notes in regard to handling?

10 Q Right. For example, if someone wants to call a  
11 manufacturer of a hazardous material on handling,  
12 would they normally keep a phone record or a --  
13 some kind of note?

14 A No, no.

15 Q Are you familiar with a Department of  
16 Transportation form F 5800.1?

17 A No.

18 Q Are you familiar with shipping papers?

19 A Which type of shipping paper?

20 Q Shipping papers pursuant to Section 174.25B,  
21 shipping papers regarding hazardous materials.

22 A As far as shipping papers, again, it would be the  
23 waybill, that the crew -- that the crew does not  
24 move the car without a waybill.

25 Q Let me turn your attention to what's been date

1 stamped 02235 on Exhibit No. 2.

2 A Oh, okay.

3 Q In the left column there it says, "Examples of  
4 Required Information on Shipping Papers." Does  
5 that look familiar to you?

6 A Yes.

7 Q How does that look familiar to you?

8 A Because that's what you would see on a waybill.

9 Q Is that an example of a waybill, I mean, the  
10 information that would be on a waybill?

11 A Part of it.

12 Q But there would be other information?

13 A Yes.

14 Q Do you have records of that -- of shipping papers  
15 other than waybills in your office?

16 A I don't receive shipping orders, no.

17 Q Okay. You mentioned earlier that you are --  
18 you're familiar with the term "residue"?

19 A Yes.

20 Q Are records of tank cars that carry residue kept  
21 separately from records of other kinds of cars?

22 A If it last contained residue or hazardous  
23 material, we keep a copy of that on file until  
24 the car leaves the yard. It goes with the car.

25 Q So the copy would go with the car or the original

1 would --

2 A Whichever we had, a copy or the original,  
3 whichever we had.

4 Q And after the car leaves the -- leaves the yard,  
5 you would not keep a copy after that point?

6 A No.

7 Q Do you know of any other location at the yard  
8 where there would be records of tank cars  
9 containing residue?

10 A No.

11 Q Are you familiar with switching orders?

12 A Some.

13 Q Some?

14 A Some.

15 Q What are they?

16 A They're what we used to call 1580's. It's a  
17 switching order given to a local crew to service  
18 customers.

19 Q What do you mean to a local crew?

20 A That's what the crew is called that serves local  
21 customers around town.

22 Q Okay. So a switching order would -- is that  
23 something that is generated by Conrail or by a  
24 customer?

25 A By Conrail.

- 1 Q And is it given to a customer then?
- 2 A No, it's given to the crew.
- 3 Q And what kind of information is on a switching
- 4 order?
- 5 A It gives you the car initial number, if it was
- 6 loaded or empty, and the place it was pulled to.
- 7 Q Where are those kept?
- 8 A We keep a copy on file for our local crew at
- 9 Elkhart.
- 10 Q How long do you keep those?
- 11 A Try to keep them for about a year.
- 12 Q You say that you try to keep them for a year. Is
- 13 there some reason why you wouldn't keep them for
- 14 a year?
- 15 A No, no, there's no reason. We do keep them.
- 16 Q And what happens to them after a year?
- 17 A They're disposed of.
- 18 Q They're thrown away?
- 19 A Uh-huh.
- 20 Q Are copies made?
- 21 A No.
- 22 Q Is that a form that has changed since you've been
- 23 employed by Conrail?
- 24 A Yes. It's computer generated now.
- 25 Q Is that the only change?

1 A Yeah.

2 Q So it's the same kind of information; it's just  
3 the way in which it's generated that is  
4 different?

5 A Uh-huh.

6 Q Are you aware of any copies that are kept at  
7 Pennsylvania -- in Philadelphia of those forms?

8 A No.

9 Q Do all Conrail terminals use those forms?

10 A Yes.

11 Q Are you familiar with a hazardous waste manifest?

12 A No.

13 Q You mentioned earlier that there is a document  
14 which indicated the position in a train of each  
15 car that would contain hazardous materials.  
16 What -- is there a form that indicates that  
17 information?

18 A The CT-168.

19 Q That's the 168?

20 A Uh-huh.

21 Q Okay. What exactly is a train consists again?

22 A It lists all car numbers with all the information  
23 on the nine lines and in the order of the train  
24 standing.

25 Q Where are those kept?

1       A     The inbound into Elkhart we keep on file at  
2             Elkhart. The outbound would be kept on file at  
3             Lansing COC, Lansing, Illinois.

4       Q     With respect to the inbound that are kept at  
5             Elkhart, how long are they kept there for?

6       A     Three months.

7       Q     And the outbound that are kept in Lansing how  
8             long are they kept for?

9       A     I don't know how long they keep theirs for.

10      Q     Mr. King would know that?

11      A     Yeah.

12      Q     With respect to the ones that are kept in  
13             Elkhart, who normally keeps those records?

14      A     We keep them in the file -- in the storage room  
15             on my floor.

16      Q     And are copies made?

17      A     No.

18      Q     What form are those kept in?

19      A     What do you mean?

20      Q     I mean are they kept on an eight and a half by  
21             eleven piece of paper or a computer card or tape?

22      A     Yeah, it would be eight and a half by eleven.

23      Q     Have those -- strike that.

24             Has that form changed since you've been  
25             employed --

1 A No.

2 Q (Continuing) -- at Conrail?

3 Is there any identifying number on that  
4 form?

5 A No.

6 Q It's just called a consits?

7 A Uh-huh.

8 Q A train consits?

9 A Uh-huh.

10 Q And do all Conrail terminals use that form?

11 A Yeah.

12 Q When a train leaves the yard, does it have a  
13 consits that goes with it or is that generated at  
14 the -- at the destination?

15 A No. It has a wheel report that goes with it.

16 Q Okay. So is it the same as the wheel report?

17 A The wheel report is slightly different than the  
18 train consits.

19 Q What's --

20 A It has all the same information, just a little  
21 bit different printout.

22 Q It's the same information but it's in a different  
23 form, or is there different information on a  
24 wheel report?

25 A The wheel report has -- if there is any hazardous

1 material, it will have the HazMat attached to it,  
2 it will tell you exactly where it is from the  
3 head end. It will be all attached, and the  
4 CT-168 would be attached to the wheel report.

5 Q So a wheel report would contain a consits, as  
6 well?

7 A Yeah.

8 Q Okay. Are you familiar with a notice which would  
9 show the location of each train -- I'm sorry --  
10 of each car that is placarded "Explosives A" or  
11 "Poison Gas"? Is that the same as a consits?

12 A Each position in a train?

13 Q Right. If there is a car that contains poison  
14 gas, is there a notice that would identify that?

15 A If it's in an outbound train, it would be on a  
16 168.

17 Q If it's on an inbound train?

18 A It should have a 168 with it when it comes in.

19 Q And if it's just in the yard, that is, it's not  
20 going in -- it's not going out and it's not  
21 coming in, it's just sitting in the yard, is  
22 there a notice or a form that would identify the  
23 location of that?

24 A No.

25 Q While a car is in the yard, the Elkhart yard, and

1 assuming the car contains hazardous materials, is  
2 there a form or some sort of tracking document  
3 that would identify where that car is in the  
4 yard?

5 A Only by car number. You must have the car  
6 number.

7 Q Okay. So if -- if I walked into your office and  
8 said I want to know where all the cars are that  
9 are -- that contain hazardous materials, that  
10 would be impossible?

11 A Like I explained earlier, there is a form that  
12 you can ask for either tank cars or by commodity.

13 Q So you can -- okay. So outside of that method  
14 there's no way to --

15 A No.

16 Q Are there any records kept in your office  
17 regarding visual inspections or defects on cars?

18 A The only records I would have of defects in the  
19 cars is a copy sent to me from the car shop of  
20 cars in the shop to be repaired.

21 Q Okay. Can you think of any records offhand like  
22 that? For example, is there any that have a CT  
23 number, a type of record?

24 A No. It's a plain form they send to me. It just  
25 lists car number initial, what the defect was.

1 Q Is that form called anything?

2 A Shop report. That's it.

3 Q Shop report?

4 A (Witness nodded head.)

5 Q Are there any records kept in your office  
6 regarding whether or not a car has been accepted  
7 at its destination? For example, when a train  
8 leaves the Elkhart yard and it arrives at another  
9 yard, does Elkhart receive a record that that  
10 train arrived?

11 A No.

12 Q So once they leave --

13 A It's gone.

14 Q They're gone. Okay. Are there any reports in  
15 your office regarding inspection reports of empty  
16 tank cars --

17 A No.

18 Q (Continuing) -- which contain hazardous  
19 materials?

20 A (Witness shook head.)

21 Q Are there any inspection reports kept in your  
22 office at all?

23 A No.

24 Q Are there any --

25 A Excuse me a minute. I do recognize this. It

1           threw me because I'm used to this little red  
2           book.

3           Q     Okay. What do you recognize this document as?

4           A     It's the hazardous materials procedures, what we  
5           have to look for, what they're instructed to do,  
6           where the cars should be placed and everything.

7           Q     And how do you recognize this?

8           A     I recognize the CT-225. That's the name of the  
9           book.

10          Q     I mean do you use this document or do you have  
11          one at work?

12          A     We have them, yes. Yes, we have them at work.

13          Q     Do you have one in your office?

14          A     I have them out at the bill rack.

15          Q     Mounted?

16          A     In the drawer.

17          Q     Okay. Do you have any records in your office  
18          regarding the repair or recondition of tank cars?

19          A     The only records I have is what I receive from  
20          the shop, the shop report, and a 1909. This says  
21          when they're repaired.

22          Q     A CT-1909?

23          A     AD-1909.

24          Q     And what is an AD-1909?

25          A     It's a report sent up from the shop that tells me

1 if the car has been okayed so I can write "okay"  
2 for both -- okay means its been repaired.

3 Q And what kind of information is on an AD1909?

4 A The car number initial, a grade if they've  
5 upgraded it, and the type of car it is and if  
6 it's an okay or a setback.

7 Q Does it indicate the repair that was made?

8 A No.

9 Q Does it indicate the material that the car was  
10 carrying prior to the repair?

11 A No.

12 Q Where are those records kept?

13 A On my floor.

14 Q And how long are they kept for?

15 A About three months.

16 Q Are any copies made?

17 A No.

18 Q Are there any other copies other than the one you  
19 have that you know of?

20 A The car shop would have the original.

21 Q Do you know what happens to the original?

22 A No, I don't.

23 Q And who would know that?

24 A Gary Yost.

25 Q Is the same -- you mentioned earlier that these

1 records are destroyed; they're thrown away after  
2 three months. Is it the same person that throws  
3 them away all the time?

4 A No. It's -- it would be a different clerk,  
5 whoever is available.

6 Q I think you mentioned that earlier. Has the form  
7 of the AD-1909 changed since you've been -- since  
8 you started at Conrail?

9 A No.

10 Q This is a -- this is an eight and a half by  
11 eleven sheet of paper?

12 A Yes.

13 Q Do you know whether all the Conrail terminals use  
14 this form?

15 A Yes, they do. It's a standard form.

16 Q Okay. Are there any records in your office other  
17 than the AD-1909 regarding leaking tank cars?

18 A I have nothing about leaking tank cars.

19 (Plaintiff's Deposition Exhibit No. 3  
20 marked for identification.)

21 BY MR. LINDLAND:

22 Q Okay. I'm handing you now what's been marked as  
23 Plaintiff's Exhibit No. 3. Have you ever seen  
24 this document?

25 A No.

1 Q Turning your attention to what's been marked as  
2 00640 on Plaintiff's Exhibit No. 3, at the top of  
3 the page, beginning with A through M, can you  
4 tell me whether your office has any records of  
5 that information regarding spills of hazardous  
6 materials?

7 A My office does not have any of it.

8 Q Can you tell me what office would have it?

9 A Transportation.

10 Q And that's under Mr. Geary?

11 A Uh-huh.

12 Q Any other offices?

13 A I don't know.

14 Q Turning your attention to what's been marked as  
15 number 00646 on Plaintiff's Exhibit No. 3, at the  
16 bottom of the page there are three companies.  
17 Have you ever heard of those companies?

18 A No, I have not.

19 Q Have you ever heard of a Spill Prevention Control  
20 and Countermeasure Plan?

21 A No, I have not.

22 Q Are you familiar with a CT-788, otherwise known  
23 as an unusual occurrence report?

24 A That's transportation's report. I don't use it.

25 Q And do you have any copies of those reports in

1           your office?

2           A     No.

3           Q     Is transportation the only one that would have  
4                 those reports?

5           A     I can't say for sure if they're the only ones.

6           Q     Do you know how long those reports are kept?

7           A     No, I don't.

8           Q     Do you know whether any copies are sent to  
9                 headquarters in Philadelphia?

10          A     I can't answer any of their questions for them.

11          Q     Are you familiar with a spill log?

12          A     No.

13          Q     That is a compiled report of spills.

14          A     No, I'm not.

15                         (Plaintiff's Deposition Exhibit No. 4  
16                         marked for identification.)

17       BY MR. LINDLAND:

18          Q     I'm handing you what's been marked as Plaintiff's  
19                 Exhibit No. 4. Have you ever seen this document  
20                 before?

21          A     No, I have not.

22          Q     Do you know whether there are any reports kept at  
23                 the Elkhart yard regarding spills of hazardous  
24                 materials?

25          A     I can't answer for transportation.

1 Q So you're saying that transportation would have  
2 that report, if anybody did?

3 A My department would not have anything -- anything  
4 to do with it, no.

5 MR. ERMILIO: I don't think she said  
6 transportation. She -- she started with her  
7 department.

8 MR. LINDLAND: But then she said she  
9 can't answer for transportation.

10 MR. ERMILIO: That's right. She didn't  
11 say transportation did have it.

12 BY MR. LINDLAND:

13 Q Do you know whether transportation would have a  
14 report like this?

15 A I can't answer for them, if they have one or not.

16 Q Are you familiar with hydrochloric acid?

17 A No.

18 Q How about trichloroethylene?

19 A No.

20 Q Are you familiar with carbon tetrachloride?

21 A No.

22 Q Do you know whether there are any records kept in  
23 your office regarding the placement of leaking  
24 tank cars or cars that were involved in  
25 accidents?

1 A No, I have none.

2 MR. ERMILIO: She's answered at least  
3 a dozen different ways that she doesn't have  
4 any records regarding leaks or spills. Are  
5 we going to continue with this?

6 MR. LINDLAND: That last question was  
7 regarding -- let's see -- cars that are in  
8 accidents generally and whether or not  
9 she --

10 MR. ERMILIO: You mentioned leaks.

11 MR. LINDLAND: Leaks, spills or  
12 accidents.

13 A Nothing with leaks or spills. Accidents only if  
14 it came out of the car shop on their car report.

15 BY MR. LINDLAND:

16 Q Are there any records kept in your office  
17 regarding fires at the Conrail facility --

18 A No.

19 Q (Continuing) -- in Elkhart?

20 A No.

21 Q No?

22 A No.

23 Q Do you know who would have those records?

24 A I can't say for sure.

25 Q Do you have any records in your office regarding

1 the use of refrigerants at the Elkhart railyard?

2 A No.

3 Q Do you know who would have those records?

4 A No.

5 Q You mentioned the car shop report or car repair  
6 report. Are there any other documents other than  
7 that that are generated by the car shop that you  
8 would have?

9 A That's all I have now.

10 Q Did you have some earlier?

11 A In the past -- well, they generate an MP-1501.  
12 It's a shop bad order ticket.

13 Q That's MP?

14 A Yeah. I believe it's MP-1501.

15 Q And what's that called?

16 A It's a bad order ticket.

17 Q Bad order ticket?

18 A Uh-huh.

19 Q And what is a bad order ticket?

20 A When they bad order a car that can't be moved.

21 Q I guess I don't understand the term "bad order."

22 A Bad order means a car is in need of repair; it  
23 cannot leave the yard.

24 Q So there would be a report generated for each one  
25 of those cars?

1 A Yes.

2 Q And where would that record be kept or where  
3 would that report be kept?

4 A Occasionally I receive it, but it's supposed to  
5 be faxed to Lansing COC, a copy of it.

6 Q Okay. You say that occasionally you would  
7 receive it?

8 A In error I receive some occasionally.

9 Q So you normally don't receive them but sometimes  
10 you would --

11 A Not anymore.

12 Q (Continuing) -- inadvertently. Do you still have  
13 those reports?

14 A No. Once I fax it on I don't keep them.

15 Q So you get the report and then your office faxes  
16 it to Lansing?

17 A Uh-huh. If I get it in error, I fax it on, yes.

18 Q Okay.

19 A That's only a copy.

20 Q Excuse me?

21 A It's only a copy that I would receive if I  
22 received any at all.

23 Q Okay. And then that's destroyed after it's  
24 faxed?

25 A Uh-huh.

- 1 Q Do you know how long Lansing keeps those?
- 2 A No, I don't.
- 3 Q Are any copies made?
- 4 A No.
- 5 Q Is there a summary of how many of those are
- 6 faxed; is there any record of how many of those
- 7 get faxed out?
- 8 A I don't keep a record of them, no.
- 9 Q Does anybody in your office?
- 10 A Not in my office, no.
- 11 Q Does anyone at Elkhart?
- 12 A They're handled by the car department.
- 13 Q In the Elkhart yard, the car shop department?
- 14 A Uh-huh.
- 15 Q Do you know whether -- what form those are in; in
- 16 other words, is it an eight and a half by eleven
- 17 piece of paper?
- 18 A No. It's small, two-by-four, two-by-five. It's
- 19 a small form.
- 20 Q Like a card?
- 21 A Like -- about the size of a card, yes.
- 22 Q Has that form changed since you've been in
- 23 Elkhart?
- 24 A No.
- 25 Q When did you stop receiving those? You mentioned

1 earlier that you used to receive them.

2 A About three years ago.

3 Q Three years ago you stopped receiving them?

4 A Uh-huh.

5 Q Why did you stop receiving them, if you know?

6 A They put out new procedures that the reporting is  
7 supposed to be done at Lansing COC.

8 Q Is that -- are those procedures in any manual or  
9 directive documents?

10 A It's in what we call a DICS notice that was put  
11 out by Conrail.

12 Q A --

13 A It's like a document, but we call it a DICS  
14 notice. It's entered into the computer system.

15 Q Is there a way to get a copy of that notice?

16 A I don't know if it's still in there or not.

17 Q Okay. Who would we contact in Philadelphia to  
18 get a copy of that; do you know?

19 A Your best connection would be to go through Stan  
20 Gula. He would know how to get through -- who to  
21 contact.

22 Q Okay. Do you know whether all Conrail terminals  
23 use that notice?

24 A It's a standard form.

25 Q Okay. So they do or they don't?

- 1 A You mean the 1501 or the reporting?
- 2 Q The 1501.
- 3 A It's a standard form.
- 4 Q Are you familiar with a form known as the
- 5 Hazardous Substance Survey form?
- 6 A No, I'm not.
- 7 Q Are you aware of any forms used at the Elkhart
- 8 yard regarding hazardous substance?
- 9 A No.
- 10 Q Can you think of any other records that are kept
- 11 by the car shop that you would have either
- 12 regarding cleaning, spills, loss of material,
- 13 destruction of material?
- 14 A No, nothing.
- 15 Q What about purchasing records?
- 16 A I don't have any of those.
- 17 Q Do you have any records regarding the B and B
- 18 building?
- 19 A No, I don't.
- 20 Q Do you have any records regarding the diesel
- 21 shop?
- 22 A No, I don't.
- 23 Q What about records regarding repairs made at the
- 24 diesel shop?
- 25 A No, I wouldn't have any of theirs.

1 Q But you do have records regarding repairs made at  
2 the car shop?

3 A Yes.

4 Q And why do you have records regarding repairs at  
5 the car shop and not repairs in any other  
6 location?

7 A The system is set up for us to report when the  
8 cars go to the shop and are repaired, but I have  
9 absolutely nothing to do with diesel locomotives.  
10 That's handled in their department.

11 Q And what about repairs that were made by the  
12 B and B building?

13 A No, I have nothing to do with those.

14 Q You're in the main hump tower, I presume?

15 A Yes.

16 Q Do you have any records regarding any  
17 communications between the hump tower and other  
18 towers or the tower -- or the hump tower and any  
19 of the other buildings?

20 A No, I don't.

21 Q Do you have any records regarding the retarder  
22 tower?

23 A No, I don't.

24 Q Any records regarding the clean-out track?

25 A As far as the clean-out track, if they upgrade

1 the cars and they send me a 1909, we input the  
2 grade changes.

3 Q What do you mean by "upgrade the cars"?

4 A If the car was B grade and they upgraded it to an  
5 A grade, we would go and make a grade change on  
6 it.

7 Q What's a B -- a B grade? First of all, how many  
8 grades are there?

9 A I couldn't tell you exactly how many there are.

10 Q Was it like A through D or something?

11 A Three or four at least, I'd say, on a box car.

12 Q And who grades them?

13 A The rep tech, which is part of the car shop.

14 Q Is D a lower grade than A?

15 A Yes.

16 Q Are cars normally upgraded or downgraded at the  
17 clean-out track?

18 A Yes.

19 Q And that downgrading or upgrading would be  
20 recorded on a 1909 form, right?

21 A Yes.

22 Q And you have copies of those?

23 A I have copies, yes.

24 Q Okay. And how long are those copies kept?

25 A Three months.

1 Q Three months. Okay. Do you have any other  
2 records regarding the clean-out track?

3 A No.

4 Q Any records regarding the west tower?

5 A No.

6 Q North tower?

7 A No.

8 Q South tower?

9 A No.

10 Q Do you have any union records, that is, records  
11 regarding meetings, safety and health records or  
12 complaints?

13 A What type of union meetings?

14 Q Any kind.

15 A No, I don't have anything on file.

16 Q Regarding union meetings?

17 A No, nothing.

18 Q How about regarding the union, period?

19 A The only thing I have to do with the union, since  
20 I have the clerical force, is if we have a talk  
21 about an individual, that's in his file, it's  
22 under his name, but as far as reports or  
23 anything, no.

24 Q Any records regarding safety or health records?

25 A What type of safety records?

1 Q That are generated by unions.

2 A No.

3 Q Any safety and health records generally?

4 A The only thing I have is a personnel file on my  
5 people where we do safety observations and if I  
6 send them for a physical. That's the only health  
7 records I would have on them.

8 Q Do you have any records of complaints by  
9 employees?

10 A No.

11 Q Do you have any records -- strike that.

12 Are you familiar with a material safety data  
13 sheet?

14 A No.

15 Q Do you have any records in your office regarding  
16 the handling of hazardous materials other than  
17 the HazMat forms --

18 A No.

19 Q (Continuing) -- that you referred to?

20 A The handling of hazardous material?

21 Q Yes.

22 A The only other thing we have is the emergency  
23 response booklet.

24 Q What about the handling of hazardous materials  
25 that are used in either the car shop or the

1 B and B building?

2 A No, I have nothing to do with that.

3 Q Are you familiar with the use of refrigerants at  
4 all?

5 A No.

6 MR. LINDLAND: Okay. I have no further  
7 questions right now, although we do reserve  
8 our right to continue this deposition  
9 pending the production of any other  
10 documents identified during this deposition.

11 CROSS EXAMINATION

12 BY MR. CUNNINGHAM:

13 Q I really have very few questions for you, mostly  
14 in the area of classification.

15 You have been with Conrail, as I understand  
16 it, since 1978; is that right?

17 A Yes, sir.

18 Q And you would have no knowledge whatsoever about  
19 any events at the Elkhart yard when Penn Central  
20 had the yard; am I correct?

21 A Are you asking if I was aware of anything when  
22 Penn Central was in charge?

23 Q Yes.

24 A I did not go to Elkhart until '85. That was  
25 after.

1 Q So your answer is you would not have any  
2 knowledge of what happened, if anything, at  
3 Elkhart with regard to any environmental spills  
4 in the '60's?

5 A I was not there. No, I would not have knowledge.

6 Q Looking at you, you probably would have been in  
7 grade school at that time?

8 A Thank you, sir.

9 Q You had never been to Elkhart, as I understand  
10 it, before 1978; is that correct?

11 A True.

12 Q Can you tell me, for the record, what your role  
13 is with the company? I've listened carefully, I  
14 think, to what you do as primarily in the area of  
15 recordkeeping; isn't that right?

16 A I'm the supervisor in charge of the clerical  
17 force at Elkhart. We classify the trains for  
18 transportation so they could switch the cars to  
19 go wherever necessary. We provide them with all  
20 the information for the inbound. We provide them  
21 with the information for the outbound. I do not  
22 keep records for transportation.

23 Q And you have nothing to do whatsoever, as I  
24 understand it, with environmental spills; is that  
25 right?

1 A You're correct.

2 Q That's handled by other departments at Elkhart;  
3 isn't that right?

4 A Other departments would handle what goes on in  
5 the yard, yes.

6 Q And I think you made some reference to the  
7 transportation department as having perhaps some  
8 responsibilities in that area, although you  
9 weren't sure; is that correct?

10 A I can't answer for what transportation is  
11 responsible for.

12 Q What about cargo losses; is there anything you  
13 have to do with cargo losses? Do you know what a  
14 cargo loss is?

15 A You mean loss of lading?

16 Q Yes.

17 A The only way I'd be aware of that is if somebody  
18 in another department would notify me.

19 Q And if they would notify you, how could you help  
20 them?

21 A As I stated to the other gentleman, if there's a  
22 transfer and they send me the proper form, then I  
23 handle getting it shown in the computer, the  
24 waybill change by the COC.

25 Q Do you have inquiries from any other departments

1 at Conrail about cargo losses?

2 A Not -- no, no.

3 Q I assume that at Conrail there is a department  
4 that would handle such losses?

5 A Yes.

6 Q Would you have any idea what department that  
7 would be and where that would be and who would be  
8 in charge of it?

9 A Loss of lading would be damage prevention. In  
10 Chicago it would be Ken Galos.

11 Q So that if an -- an individual selling a  
12 product -- what do you call those, consignors?

13 A Turnover cars?

14 Q Well, in other words, if cargo or material is  
15 being transported, there's usually a seller and a  
16 buyer, I take it?

17 A True.

18 Q You're just the intermediary wherein you deliver  
19 it?

20 A We deliver, yes.

21 Q The seller would naturally want to make sure that  
22 his product is delivered in its entirety to the  
23 buyer, and assuming that sometimes along the way  
24 things are lost or stolen, and if that is the  
25 case, how would a person begin, let's say as a

1 seller, to determine where that loss occurred,  
2 how it occurred and who was responsible? Can you  
3 tell me that?

4 A When the car reaches designation, if the contents  
5 does not match their shipping order, then they  
6 contact the Conrail claims department who does  
7 the investigating.

8 Q Okay. So that in the case of a leak, Mrs. Birr,  
9 if the seller or buyer said, "Look, I only got  
10 half of this gasoline and there was supposed to  
11 be twice as much in this tank car than there  
12 was," they would then begin to inquire of Conrail  
13 first to the claim department; is that correct?

14 A Yes.

15 Q And where is the claim department located?

16 A We have a claim department in Elkhart.

17 Q Okay. Let's assume that the loss occurred  
18 someplace between Cleveland and Elkhart and it  
19 came into the Elkhart yard and was deficient in  
20 its volume -- let's say it was carbon  
21 tetrachloride -- how would you be able to find  
22 out where that was lost if you were a buyer or a  
23 seller? Where would you begin?

24 A All I could tell you is that they would have to  
25 contact the claim department and claim does the

1 investigation.

2 Q That's an area you would contact the claim  
3 department at Elkhart?

4 A Well, not necessarily Elkhart. Any claim  
5 department on Conrail you can contact.

6 Q But you're telling me there is an Elkhart claim  
7 department; is that right?

8 A Yeah, there is a claim department at Elkhart.

9 Q And who is in charge of that?

10 A I think his name is Kauffman.

11 Q And how long has he been there?

12 A I don't know.

13 Q And do you know how large a staff there is or  
14 where that office is located?

15 A No, I don't.

16 Q What is Kauffman's first name?

17 A I don't know. I've only spoke to him on the  
18 phone.

19 Q Have you had any dealings with claims at all?

20 A No.

21 Q All you know is that it exists?

22 A Yeah.

23 Q What branch does the claim department fall under?

24 I think Mr. Geary mentioned the various  
25 departments, transportation, engineering,

1 maintenance, communication and signal and  
2 clerical as being the five departments at  
3 Elkhart.

4 A Yeah. That's the departments, but as far as  
5 claims, they're a separate entity. They have  
6 nothing to do with us.

7 Q Is this a separate --

8 A Yeah.

9 Q Are there any --

10 A They process claims. That's it.

11 Q Is there an insurance department, too, at  
12 Conrail?

13 A I don't know.

14 Q You have never had any dealings with that?

15 A No, at all.

16 Q Do you know, Mrs. Birr, whether in addition to a  
17 claim department at Elkhart, there is also one at  
18 Lansing, Illinois?

19 A Well, maybe claims is claims instead of damage  
20 prevention. I could be wrong.

21 Q I'm not trying to trick you or anything. I'm  
22 just trying to find out what you got there at  
23 Conrail so we know and can locate this  
24 information.

25 We have been brought into this lawsuit based

1 on an allegation that back in the '60's there was  
2 a massive spill that occurred at Elkhart, and  
3 we're trying to find out where there might be  
4 some records on that.

5 A I couldn't help you there. I don't know.

6 Q Do you know Mr. Claude Brewton?

7 A No, I don't.

8 Q Do you know Mr. Ted Berkshire?

9 A No, I don't.

10 Q Do you have any knowledge at all about what I've  
11 just mentioned to you, an allegation that there  
12 was a spill --

13 A No, I don't.

14 Q (Continuing) -- in the late '60's?

15 A No.

16 Q So you have no knowledge of that whatsoever?

17 A No.

18 Q And in order to conclude, let me just ask you  
19 this: If you were to be helpful to me, where  
20 would you tell me to look to find out whether or  
21 not this allegation was true or not? Can you  
22 give me any help in that area?

23 A The only thing I could suggest is to contact the  
24 claims department and let them lead you.

25 Q So I'd start there?

1 A Uh-huh.

2 Q You have no other departments or knowledge as to  
3 where I could find this information --

4 A No, I don't.

5 Q (Continuing) -- is that right?

6 MR. CUNNINGHAM: That's all I have.

7 Thank you.

8 MR. ERMILIO: I have no questions.

9

10

11

Betty Jane Birr

12

SUBSCRIBED AND SWORN to before me  
this \_\_\_\_\_ day of \_\_\_\_\_  
A.D. 1992.

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Notary Public, State of Indiana  
County of Residence: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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## CERTIFICATE

I, Ursula A. Wenzel, a Notary Public in and for the County of St. Joseph and State of Indiana, duly authorized to administer oaths, do hereby certify there appeared before me at the said time and place, BETTY JANE BIRR, who was first duly sworn to testify the truth in response to questions propounded at the taking of the proceedings in the above-captioned cause.

I further certify that I reported in machine shorthand (Xscribe) the proceedings at the said time and place which were reduced to typewriting under my supervision; that the foregoing typewritten transcript is a true and accurate record thereof.

I further certify that the deposition was read and signed in the presence of a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this \_\_\_\_ day of \_\_\_\_\_, A.D., 1992.

Ursula A. Wenzel, RPR, CP  
Notary Public, State of Indiana  
Residence: St. Joseph County  
My Commission Expires 9-6-95